

**LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD**

Meeting of July 26, 2007

Members in Attendance

David Dowling, Chairman
Sara Jane Cate, Vice Chairperson
Jeffrey Staub
Richard Freeburn

Also in Attendance

James Turner, Solicitor
Dianne Moran, Planning & Zoning Officer

Docket # 1235

Applicant: Holy Name of Jesus Football Program

Address: 6150 Allentown Boulevard

Property: 6150 Allentown Boulevard, Harrisburg, PA

Interpretation: The Maximum height of a sign is 10 feet.
Applicant proposes a sign height of 25 feet.

The maximum area of a sign is 40 square feet.
Applicant proposes a sign with an area of 480 square feet.

Grounds: Section 714.A of the Lower Paxton Township Codified Ordinances pertains to this application.

The following were sworn in: Sonia Buglio, 4608 Coventry Road, Secretary of the Board for Holy Name of Jesus Football; Richard Sadlock, Attorney and member of the Board for Holy Name of Jesus Football; James Snyder, Herbert Roland & Grubic, Township Engineer; and Dianne Moran, Lower Paxton Township Planning and Zoning Officer.

Ms. Moran testified that the appropriate fees were paid on July 2, 2007. Proper advertisements were made in The Paxton Herald on July 11 and 18, 2007. The property was posted on July 17, 2007.

Ms. Moran testified that Section 714.A of the Lower Paxton Township Codified Ordinances pertains to this application. The applicant is proposing a scoreboard that exceeds the maximum allowable height and area.

The sign will be five feet off the ground, and 20 feet high, for a total height of 25 feet and the area of the proposed sign is 480 square feet.

Ms. Buglio stated she is an EMT and trainer for the football program and has been involved in decisions and searching for a new scoreboard. Mr. Sadlock presented photographs of the proposed sign. The picture is the standard sign for scoreboards and is eight feet high and 24 feet wide. The Holy Name Football Program is a self funded program, meaning that the Program has to raise the funds for maintenance, equipment and renovations. Ms. Buglio testified that 186 children are signed up for this year's team, with a potential of approximately 200 children total. The average cost per child for equipment is \$360.

Ms. Buglio testified that the proposed scoreboard will be located in the same location as the current scoreboard, which is at the far end of the field, away from Route 22. The scoreboard is 35 years old, and cost over \$3,000 last year in parts and replacement bulbs. The overall condition is old and deteriorated. It has to be painted every year, and some of the words are actually spelled out in athletic tape. The current model of scoreboard has light bulbs behind chicken wire to form the numbers, and the bulbs are difficult to find. The new sign will have three feet high by eight feet wide sponsor boards available on the scoreboard. Ms. Bulio stated that the purpose is to have renewable income each year to fund the program.

Mr. Dowling agreed that they need a new scoreboard and asked why it needs to be so big.

Ms. Buglio stated that the current scoreboard is 18 feet wide and 10 feet wide, and 180 square feet. The scoreboard portion of the sign is 24 feet wide by eight feet wide.

Mr. Sadlock stated that there are not many scoreboard manufacturers, and the size proposed is the general size available and has everything Holy Name needs to run the football game. The sponsor boards are not necessary for running the game, but would greatly aid fundraising. The football program is supported by the church only, and not financially. It was started by Father Mahoney in 1968, and may have been funded by the church at that time, but the program has grown to almost 200 kids, and everything is paid for by the program.

Mr. Sadlock stated that the signs will not be lit, nor will they have spotlights shining on them. The scoreboard will be in operation for the home games and perhaps one or two play-offs, and a few Bishop McDevitt games. The scoreboard is typically used from 3:30 pm to about 9:30 pm on a Saturday. The signs will be painted signs.

Mr. Sadlock stated that none of the sponsor boards have been sold yet.

Mr. Dowling asked how many sponsors are on the current scoreboard. Mr. Sadlock stated that the current sign only says Holy Name of Jesus. The need for sponsors is part of the struggle to keep the program affordable for the children. The children are not involved in fundraising.

The sponsor signs clip onto the scoreboard, and will be removed at the end of the season to store for the winter. They would be up from the first practice at the end of August until the end of the season.

Mr. Freeburn asked is the scoreboard should be considered a billboard. Ms. Moran agreed it is large enough to be a billboard. Mr. Freeburn stated that the sign does not advertise Holy Name, it advertises off-site businesses. Ms. Moran noted that a billboard is not permitted at this location.

Ms. Cate asked if it costs \$10,000 to run the program each year. Mr. Sadlock stated it actually costs about \$30,000 to \$50,000 total including field maintenance.

Mr. Dowling asked how many children have gone through the program. Mr. Sadlock stated that there will be 200 this year, and for the last 5 years it has had approximately 175, and speculated there are thousands of kids that have gone through the program. The children in the program are not just from Holy Name, they are also from the entire parish boundary, and from other Catholic churches in the area.

Ms. Cate asked the percentage of the funding that would be covered by the sale of the signs. Mr. Sadlock stated the cost has not been determined for a sign, but it should depend on the length of commitment. He noted there is no guarantee that they will sell them either. The estimates for a one-year commitment are between \$500 and \$1,000. A three-year commitment would probably get the advertiser a discount. There are 11 sponsor sites on the scoreboard.

Mr. Sadlock stated that the only buffer proposed for the Sheetz being built at the corner of the field is going to be shrubbery. They don't want visitors to the field to buy from the convenience store instead of the concession stand, so a fence will likely be needed. There is also a safety concern with Sheetz making the fence necessary. A fence will also have to be considered along Route 22, as well as other costly improvements.

Mr. Freeburn asked the distance the sign will be from Route 22. Mr. Sadlock stated it will be at least 230 yards or 600-800 feet.

Ms. Cate asked what is behind the school. Ms. Buglio stated there are some trees, and then some houses, and then the highway.

Ms. Cate asked if they would consider taking away 6 of the sponsors. Mr. Sadlock stated that would greatly take away from the income generated, but would do what the Board allowed.

Mr. Staub stated the sign proposed is twelve times the maximum allowed by the ordinance and the height is 10 feet higher than allowed. The advertising is 264 square feet and the scoreboard itself is only 216 square feet. That may not be too much advertising necessarily, but Mr. Staub felt the applicant may just be asking for too much.

Mr. Sadlock understood the concerns, but felt it was a unique situation, and is not a typical business asking for a huge sign. He stated that the program has not sold any of the signs, and there is the possibility that all of the signs will not be sold. They will not clip on blank signs. They will only put up the signs when they are sold. Ms. Buglio added that they will be removed at the end of the season. Mr. Sadlock stated that the only light coming from the scoreboard will be the numbers on the scoreboard. The season, including practices and play-offs, runs from the beginning of August to the first week in November.

Mr. Freeburn noted that the sign is so far from the road and supports a valuable community service, and felt it was not objectionable.

There was no comment from the audience.

The Township had no position on this application.

Mr. Sadlock presented a photograph of some existing scoreboards showing actual sponsor signs. He felt that the signs would not be visible from Route 22, and is only intended for those attending the games.

Mr. Freeburn asked if the church had a position with regard to the scoreboard. Mr. Sadlock stated that he spoke to Monsignor Lawrence before obtaining estimates. He also noted that the signs will be from tasteful upstanding businesses in the area.

Mr. Freeburn made a motion to grant the variance application as submitted. Ms. Cate seconded the motion, noting that the testimony is that there will be no lighting on the sponsor signs. A roll call vote followed: Mr. Staub-Aye; Mr. Freeburn-Aye; Ms. Cate-Aye; and Mr. Dowling-Aye. The variance was granted.

The hearing ended at 7:41 pm.

**Docket # 1236 and
Special Exception #07-03**

Applicant: Drs. Keith and Dana Fetterolf

Address: 4400 Deer Path Road, Harrisburg, PA 17110

Property: Southwest corner of Colonial Road and Linglestown Road, 35-009-187

Interpretation: Parking lots may not be located within 75 feet of the center of a perennial creek. The applicant is requesting a 38-foot relief from the stream setback.

A minimum setback of 20 feet from the wetland to any principal building. Applicant is requesting a 16-foot relief from the wetland setback.

Parking in the Floodplain requires a Special Exception. The applicant proposes a parking lot for 12 parking spaces that lies within the 100-year floodplain.

Grounds: Article 3, Sections 307.B and 306.B.1, of the Lower Paxton Township Codified Ordinances pertain to these applications.

Mr. Turner advised that an additional variance is being requested. It was not advertised, however the hearing can be held with an advertisement to be made for the next meeting, at which time it can be acted on.

Mr. Bachik stated that there is a portion of the building to be located within the wetland setback area, not actually in the wetland.

The following were sworn in: Craig Bachik, Kairos Design Group; James Snyder, HRG, Inc., Township Engineer; and Dianne Moran, Lower Paxton Township Planning and Zoning Officer.

Ms. Moran testified that the appropriate fees were paid on July 3, 2007. Proper advertisements were made in The Paxton Herald on July 11 and 18, 2007. The property was posted on July 17, 2007.

Ms. Moran testified that Section 312.A Creek Setbacks, 308.C Wetland Setback, and 504.G Prohibited Uses, apply to the variance request. Section 504.H.1 Special

Exception Uses, pertains to the Special Exception request. The applicant is requesting a 38-foot relief from the stream setback, a 16-foot relief from the wetland setback, and relief from the prohibited uses section of the ordinance.

Mr. Staub stated that section 504.N.1.d. says no variances shall be granted for any prohibited uses listed in 504.G. That is also consistent with the old floodplain ordinance. Ms. Moran stated that the applicant may need a variance from that provision. Ms. Moran stated that 504.H says that the parking lot within the floodplain requires special exception approval; such uses shall not be allowed if they violate section 312. Section 312 is the creek setback, for which a variance is being sought.

Mr. Staub stated that once the detailed study has been done, the building will most likely not be near the 100-year floodplain.

Mr. Turner asked how long it takes to do a LOMR. Mr. Bachik stated that a LOMR is based on as built survey once the critical construction has been done, which is typically six months. Mr. Staub asked about a conditional LOMR. Mr. Turner asked if the building has to be done before a LOMR is submitted. Mr. Bachik stated that is historically how it is done. Mr. Bachik stated a conditional LOMR is done in advance.

Mr. Bachik stated that the Planning Commission reviewed the Special Exception request. The FEMA mapping for the 100-year floodplain is no longer accurate on this site because of the fill that has been placed on the land by previous owners. As part of the land development process, post construction, the applicant will redefine the floodplain with a Letter of Map Revision (LOMR). However, as depicted by FEMA, a small portion of the building is in the floodplain. The applicant is seeking the variance and special exception until such time as they can accurately redefine the floodplain.

Ms. Cate asked why that was not done before. Mr. Bachik stated that the applicant has to know if they have a viable project before spending the time and money needed.

Mr. Freeburn asked if this problem was encountered at the Mumma property and the Park Place project.

Mr. Turner stated that if the Board were inclined to grant the variance, it could be conditioned upon the LOMR being approved. That means that the LOMR has to be done before the construction because the variance would not be valid unless the applicant had their LOMR approved. Mr. Bachik stated the best they could get is a conditional LOMR.

Mr. Turner asked what the likelihood was that a party gets a conditional LOMR and not a final LOMR. Mr. Snyder felt that if a conditional LOMR was obtained and the construction was completed as proposed, he was fairly certain that the final LOMR would be granted as well.

Under the Park Place scenario, they were granted a variance conditioned upon submitting the LOMR, not the approval of the LOMR. That was done under the old ordinance, and the Zoning Hearing Board doesn't have the authority to do that now. Mr. Turner stated that a variance would have to be conditioned upon the conditional LOMR indicating that the construction will not be in the floodplain.

Since the Board doesn't have the authority to grant the variance, that one does not have to be advertised. Mr. Snyder stated that if a variance was granted for 312 then the provision of 504.H would no longer be in violation of 312.

Mr. Dowling suggested considering the other issues first, because if they are not granted, these will not need to be acted on. Mr. Dowling stated that regardless of the floodplain line, the parking is within 75 feet of the center of the creek. Mr. Bachik agreed.

Mr. Turner stated that the floodplain ordinance says the Board cannot grant a variance for the building, so the only way around that is to get the Map revised. The only issues to consider are stream setbacks, and wetland setbacks.

Mr. Bachik stated that the property is at the corner of Linglestown Road and Colonial Road, and is a difficult parcel to develop. No access is allowed onto Colonial Road by PennDOT, and the access that is aligned with the Sheetz property is a right in/right out only access. The dental use is a permitted use in the CN zoning. The dental office itself has its own restrictions and criteria. They anticipate growth by a third physician. There are certain square footages required for the offices, the surgical area, and anesthesia recovery. There are requirements for adjacencies within the office. There is a sheltered pick-up/drop-off location required for patients who have been under anesthesia. Regardless of the use in the property, the creek and wetland setbacks, and the setbacks for the building itself, the buildable area is very small. In order to propose any use on the property, variances would be required. The applicant seeks to create a viable office use by pushing the building and associated parking to the north as much as possible; however, the building still encroaches 16 feet into the buffer areas. The impact will not affect the wetland area itself.

With regard to the parking spaces in the wetland creek setback, Mr. Bachik stated that they intend to grade the parking lot in such a way that if there were a flooding event the cars or the hazardous petroleum products within the vehicles would flow away from the creek. The request for variance regarding parking is the minimum that would afford relief. The project proposed will have no adverse affect on the neighbors or the neighborhood as a whole.

Ms. Cate asked the size of the building. Mr. Bachik stated the total square footage is 9,800 square feet.

Mr. Dowling asked the parking spaces requirement. Mr. Bachik stated that 23 parking spaces are required, and there are 23 spaces proposed.

Mr. Freeburn asked about the dumpster location. Mr. Bachik stated it may be located in the southeast or the southwest corner, depending on the possible connection through the property to the south.

Mr. Freeburn asked about a detention basin. Mr. Bachik stated that a subsurface facility is proposed to flow to Paxton Creek.

Mr. Freeburn asked about the total size of the lot and the buildable area. Mr. Bachik stated that the lot is 1.3 acres, and the building envelope is 200 feet by 80 feet, or 16,000 square feet, or about one third of an acre.

Ms. Cate asked about the portion of the building extending into the wetland setback. Mr. Bachik stated that area is surgical space, and there are adjacency requirements mandated by the building codes and the space needed is definitely needed to meet those requirements.

Mr. Staub asked where the rear yard is located. Ms. Moran stated that the property has two front yards so the yard to the south is the rear yard, and the yard along the creek is the side yard.

Mr. Dowling felt that the building was very large for a property of this size.

Mr. Staub asked about the proposed connection to the property to the south. Mr. Bachik stated there are discussions going on, but there is no formal decision whether the owner will or will not agree to the connection.

Mr. Dowling asked if the Township Engineer had a position on the variance applications. Mr. Snyder stated that nothing has been formally submitted such as the hydraulic analysis. It would be appropriate that any action on the applications should be subject to the applicant being required to produce such studies. Mr. Dowling felt the variance applications would not change based on the studies, only the special exception request. Mr. Snyder noted that the 75 foot setback criteria will change shortly with the zoning ordinance amendment. The ordinance will then require a 50 foot setback from the top of the bank of the creek. Mr. Turner asked how much of the parking will be within that area. The encroachment may or may not be less.

Mr. Staub asked if any verification or jurisdictional determination of the wetlands was performed. Mr. Bachik thought there was a wetland study done as part of the adjacent property, but did not know if a jurisdictional determination has been performed. The wetland study Mr. Staub was familiar with is a dated one, and felt that DEP may require that the wetlands be redelineated.

Mr. Turner asked about the connection to the south's effect on the wetlands. Mr. Bachik stated that there will be permits required for the disturbance and mitigation for the extension of structures and pipes along Colonial Road.

The Township had no further comment.

There was no comment from the audience.

Mr. Freeburn asked what would happen if the building would change use in the future, noting that a dental use requires less parking than an office use. Mr. Freeburn stated that about 30 spaces would be required. Mr. Bachik stated that if the building were no longer a dental facility, the covered pick-up space would not be required and could be converted into parking spaces.

Mr. Staub made a motion to deny the variance requests as submitted. Ms. Cate seconded the motion. Mr. Freeburn asked for an explanation for the motion. Mr. Staub stated he has had experience with the property and felt it could be developed with less impact, less building, and less parking. He noted that the access to the property is the biggest issue. Ms. Cate agreed.

Mr. Bachik stated that, because of the access issues and costs associated with any off-site improvements as imposed by PennDOT, any owner of the land would have to maximize the potential for the property to make it worthwhile. Those hardships imposed by the State on this property have a significant affect on the development of the land. A dental facility is a good compatible use as it is a low traffic generator, and its traffic peak hours are opposite regular peak hours. Any use of this property will generate similar issues and what this applicant is proposing has the minimal impact on sensitive natural features.

Mr. Freeburn asked if the footprint of the building could be made smaller by making it a two story building. Mr. Bachik stated that would not work because of the adjacency requirements. The site was also used as a fill site for organic material which is now decomposing, which means the site has to be completely excavated and the cost of a two story foundation would be excessive. The applicant and designer have gone through many scenarios including underground parking, and the plan proposed tonight is the best possible plan.

A role call vote followed: Mr. Staub-Aye; Mr. Freeburn-Aye; Ms. Cate-Aye; Mr. Dowling-Aye. The variance was denied.

The variance hearing ended at 8:32 pm.

Ms. Moran stated that because the variance was not granted for Section 312, the applicant does not meet the criteria for granting a Special Exception.

Mr. Turner stated that the testimony from the Variance hearing can be incorporated into the hearing for the Special Exception request.

Mr. Bachik stated that the Special Exception request is related to parking, not the building as discussed in the variance hearing. He noted that the western third of the lot is useless as far as parking without a special exception. He noted that the request was forwarded to the Zoning Hearing Board after the Planning Commission recommended approval of the request, and respectfully requested that the Board act favorably on it.

Mr. Staub stated that if the applicant does the detailed study to show the exact location of the 100-year flood, they will not need the Special Exception. Mr. Turner agreed.

Mr. Bachik stated that if the applicant chose to build a smaller building and chose not to redefine the floodplain, then the special exception would be necessary. Ms. Moran stated that a special exception could be approved, but only if the parking was outside of the creek setback.

Mr. Bachik stated that an access drive is permitted in the 75-foot creek setback. It would be possible to eliminate those spaces and place the driveway there. The parking spaces would then be outside the creek setback but still in the 100-year floodplain.

Mr. Turner stated that if the applicant intends to rethink the project, it might be appropriate to table action on the special exception request, until such time as another request is submitted. Mr. Turner asked for the applicant to agree to waive the 45 days in which the Zoning Hearing Board has to act until a new application has been submitted. Mr. Bachik agreed that would be fine.

Ms. Cate made a motion to table the hearing for Special Exception 07-03. Mr. Freeburn seconded the motion and a unanimous voice vote followed.

The special exception hearing ended at 8:42 pm.

Respectfully Submitted,

Michelle Hiner
Recording Secretary