

**LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD**

Meeting of September 24, 2009

Members in Attendance

Sara Jane Cate, Vice Chairperson
Greg Sirb
David Dowling
Richard Freeburn

Also in Attendance

James Turner, Solicitor
Dianne Moran, Planning & Zoning Officer

**Variance Via
Docket #1267**

Applicant: Joann Fabrics & Crafts
c/o Deforest Signs

Address: 780 Elder Street, Harrisburg, Pa 17104

Property: 5084 Jonestown Road, Colonial Commons

Interpretation: One wall sign is permitted for multi-tenant building in a
Planned Center.
The applicant proposes four additional wall signs.

Grounds: Article 7, of the Lower Paxton Township Zoning Ordinance
pertains to this application.

Fees Paid: August 14, 2009

Property Posted: September 15, 2009

Advertisement: Appeared in The Paxton Herald on September 9 & 16, 2009

The hearing began at 7:00 pm.

Ms. Cate stated it is customary for the Board to enter the application and site plans as Township exhibits. The applicant had no objection to its doing so.

The following were sworn in: Greg Shugart, President of Deforest Sign Company, 780 Elder Street Harrisburg, Applicant; and Dianne Moran, Planning & Zoning Officer.

Mr. Shugart stated that JoAnn proposes to add four auxiliary non-illuminated signs to the front of the building. They currently have two signs: one that reads "JoAnn" (4 feet by 25 feet) and one that reads "Fabrics & Crafts" (23 inches by 18 feet). The ordinance allows one sign with a maximum size of 32 square feet. They propose four new signs: "Floral" measuring 20 inches by 5 foot two inches (8.5 square feet), "Home" measuring 20 inches by 6 feet (9.9 square feet), "Custom Framing" measuring 20 inches by 16 feet 6 inches (27.3 square feet), and "Holiday Décor" measuring 20 inches by 14 feet 6 inches (24 square feet). The total request is for 69.7 square feet.

Mr. Shugart stated that if the store was on a freestanding site, with the existing square footage (25,000 sq. ft) they would be permitted 10% of the frontage which would be 448.5 square feet. There is 136 square feet of signage on the building currently.

Mr. Shugart stated that JoAnn is in the northwest corner of the shopping center, and they have no visibility from the front of the center, until you are $\frac{3}{4}$ of the way into the center.

Mr. Shugart stated that there are many other stores in the Township with the type of auxiliary signs being requested. He understood that they were installed under the previous ordinance.

Mr. Shugart stated that the current ordinance would allow a box sign 4 feet by 100 feet. He could theoretically place all of the wording JoAnn desires on their store front. He thought that would look less than tasteful. The signs they are proposing are tasteful and not cluttered. They would not be illuminated and would not impede on anyone else in the neighborhood. Non-illuminated individual lettering appears much more upscale and nicer than a large box sign.

Mr. Freeburn asked the Township's opinion. Ms. Moran stated that the Township did not have a position on this application.

Mr. Freeburn asked how many signs are allowed. Ms. Moran stated one wall sign is permitted.

Mr. Freeburn asked how much square footage is proposed. Mr. Shugart stated there is 136 existing, and they propose 69.7 more, for a total of about 205 square feet.

Mr. Freeburn stated that the ordinance allows one, and the applicant is asking for four more than that, and the next step will be other tenants in the same shopping center asking for the same relief. Mr. Shugart understood the issue, but noted that JoAnn is different because it is allowed a 32 square foot sign on a store with 195 feet of store frontage. That corner of the center is dead or vacant. He suggested that he might be permitted to run an awning the length of the store and put the four products across the awning. What is proposed is a first class, non-illuminated lettering to create some interest in the back corner.

Mr. Freeburn asked if the letters are back-lit. Mr. Shugart stated they will not be lit at all, they will flat cut cast-metal letters pin-mounted into the wall. There will be no additional lighting.

Mr. Sirb stated that this request is similar to the shoe store at the Colonial Park Mall. The difference is that the shoe store was allowed four signs because they had four distinct individual products. Ms. Cate noted that they also had four different doors or entrances.

Mr. Sirb felt that people know that JoAnn's has the products listed on the proposed signage. He also agreed that they are in the back corner of "no-mans-land". Mr. Shugart stated they are not proposing lighting on the signage as a compromise.

Ms. Cate noted that JoAnn is the first store she sees when she enters the center off of Devonshire Road. Mr. Shugart noted that she sees the side of the building. Ms. Cate stated she knows it is JoAnn Fabrics, and she knows what they sell. Mr. Shugart stated that she knows this because she is a long-time resident of the area. He explained that signage is not designed for the person that frequents the area, they are aiming for new business. Ms. Cate stated that a person that is not familiar with the shopping in the area is not going to drive around looking, they will look through the ads or phone book for the services they need. Mr. Shugart stated he respectfully disagreed. He stated that on-site signage is the #1 form of point of purchase advertising. It is the least expensive and most attractive way to advertise.

Mr. Dowling stated he has not purchased fabric in some time. When he hears JoAnn Fabric, he thinks of the place you go to buy fabric. He asked for more information with respect to what the four signs will do to augment the perception of JoAnn Fabrics.

Mr. Shugart stated they are designed to supplement what is available. The situation is similar to Guitar Center, which is a place that does more than sell guitars. It gives the general public another look at JoAnn and the different products and services they offer.

Mr. Dowling asked about the letter size. Mr. Shugart stated that a typical auxiliary sign is 18 inches tall. That is based on where a vehicle is parked in the parking lot. The 20 inch letters can be seen at 300 feet away, which is approximately $\frac{3}{4}$ of the way back the driveway of the shopping center.

Mr. Freeburn asked why Floral and Home are both needed. Mr. Shugart stated he couldn't answer that as the sign man. Mr. Sirb didn't know what home meant. Mr. Shugart stated it is home décor or home furnishings.

Mr. Sirb agreed something additional is needed, but thought that four signs are overkill.

Mr. Freeburn asked for testimony why this store is different than every other store there, so that they are not rewriting the ordinance. Mr. Shugart stressed the placement of the store within the center. He stated that the signage is designed to catch the eye of the person who thinks that JoAnn sells fabric, or to attract new clientele.

Mr. Shugart asked how an awning with painted-on lettering would be classified under the current ordinance. Ms. Moran read the definition and regulations for an awning sign, which is regulated as a type of wall sign, and is still governed by the planned center sign which restricts the size to 32 square feet.

There was no comment from the audience.

Ms. Moran stated that the Township had no position on the application.

Mr. Sirb stated that four signs are too many. He agreed that the location being in the back corner is a challenge to some degree. Four signs may be flaunting the ordinance.

Mr. Freeburn stated that his concern is that the needs of a merchant should not be the basis on which to grant a variance. There should be some characteristic of the building or site which justifies a variance. When JoAnn moves out and a new merchant moves in they will have different needs, and over the years JoAnn's needs may change. These are not reasons for a variance. If there is not something about this particular space that requires more signage, it will lead to everyone asking for the same variance. If that takes place, they have rewritten the ordinance for the Township, and that is not the role of the Zoning Hearing Board.

Mr. Shugart stated that the topography creates a lack of visibility for this site. Mr. Freeburn stated that is not a reason to grant a variance. If it were, every building that is one or two streets off Route 22 will say they need a taller bigger sign. Mr. Shugart argued it is a hardship.

Mr. Freeburn did not object to the proposal, but wanted to ensure sufficient evidence has been given to allow the granting of a variance. He noted that the long blank wall is a characteristic that is unique to the property. Mr. Dowling agreed it would look better with some lettering than it does without anything. Mr. Sirb agreed, but thought that four was too many.

Mr. Sirb made a motion to grant the application, with the stipulation that only 2 of the four signs be granted. Mr. Dowling seconded the motion. Ms. Cate called for discussion on the motion. Mr. Sirb noted that it will not add clutter to Route 22 because you will not see the signs until you are inside the shopping center. Mr. Dowling suggested the stipulation be more precise. Mr. Sirb suggested the two allowed signs be no larger than presented. Mr. Turner suggested two signs, no sign to exceed 27.3 square feet per sign. Mr. Sirb agreed to the amendment. Mr. Freeburn asked that the motion also stipulate that the applicant shall not exceed the total square footage proposed, and

give up rights to the 446 square feet of signage discussed, meaning no additional signage on the building. Mr. Sirb made the motion as amended, and Mr. Dowling seconded the motion. A role call vote followed: Mr. Freeburn-Aye; Mr. Dowling-Aye; Mr. Sirb-Aye; and Ms. Cate-No.

The hearing ended at 7:34 pm.

**Variance Via
Docket #1268**

Applicant: AT&T Device Support Center
c/o Service Select Signs

Address: 400 Mack Drive, Croydon, PA 19021

Property: 5114 Jonestown Road, Colonial Commons

Interpretation: Article 7, Planned Center Signs, limit the number of wall signs to one.
The applicant proposes additional wall signs.

Grounds: Article 7, of the Lower Paxton Township Zoning Ordinance pertains to this application.

Fees Paid: August 14, 2009

Property Posted: September 15, 2009

Advertisement: Appeared in The Paxton Herald on September 9 & 16, 2009

The hearing began at 7:36 pm.

Ms. Cate stated it is customary for the Board to enter the application and site plans as Township exhibits. The applicant had no objection to its doing so.

The following were sworn in: Meme Olson, owner of Service Select Signs, Agent for AT&T; and Dianne Moran, Planning & Zoning Officer.

Ms. Olson stated she toured the shopping center prior to the hearing. She is not interested in the signage proposed with the application. She would like to ask for one sign.

Ms. Olson explained that when she drove the shopping center, she had difficulty locating the store. Once she found it, she could not locate the three signs that currently exist on the store. She then found two signs on the side that face the movie theater. They do nothing for visibility of the store. The request is based on information gathered by a local sign person, which turns out to be inaccurate information. Ms. Olson stated she requested the landlord trim the tree near their sign, and they removed the whole tree.

Ms. Olson stated that a Device Support Center for AT&T offers services different than what is offered in an AT&T store. It is for people that have difficulty or failure with

their phones. They do not sell phones. A Device Support Center is strictly for servicing phones for AT&T Mobility.

AT&T has a lease for 2 more years at this location, and decided to change it from retail to support.

Ms. Olson stated that the original request is for 61 square footage of signage. The three signs that exist are so tiny and half of them are not lit. The site is permitted 32 square feet of signage, and she felt that 50 square feet would be enough for them to design a sign that fits within the center and has good visibility. A person directed to go to the Device Support Center is in jeopardy of causing an accident while trying to find it.

Mr. Freeburn asked if the change in the request will require readvertising. Mr. Turner stated the advertisement is for number of wall signs, not area of the signs. He noted the Board should not be asked to act on a request they cannot see exactly what is proposed. He suggested that the application be tabled so that the applicant can come to the next meeting with a drawing of exactly what is being requested. Ms. Olson asked if the advertisement of three signs implies additional sign area. There are three signs on the building now, and the request was to add onto those three signs. Mr. Sirb asked if Device Support Center was supposed to be added to all three signs. Ms. Olson stated yes, but now does not want all three signs, they only need one good sign that will advertise AT&T Device Support Center. Ms. Cate stated the advertisement for the hearing is what the Board may act on.

Mr. Freeburn asked if what is shown on the drawing is what is now being asked for, but only one sign as opposed to three. Ms. Olson stated they now want one sign that is larger. Ms. Cate stated the hearing must be readvertised.

Ms. Moran stated that the signs depicted are 38.13 square feet for two of the signs, and 15.7 square feet for the third. Ms. Olson had different calculations. Mr. Turner explained that the sign area is measured by drawing a rectangular box around the sign and measuring the box.

Mr. Dowling suggested picking one of the three signs. Ms. Olson stated they are not big enough. She stated it is ridiculous how difficult it is to drive in that shopping center and look for the store.

Mr. Freeburn suggested one sign, no larger than the 38 square foot sign proposed in the application. Ms. Olson stated she is going to ask for a larger sign. She asked what happens if the Board grants a sign no larger than 38 square feet and she designs a sign that is 42 square feet. Mr. Turner stated that AT&T would be required to file another application including another application fee, and she would have to come to another hearing. It would be fair to the applicant and the Board if the hearing were tabled and the applicant ask for and depict what it needs. The Board has to be able to review the request and make an informed decision.

Mr. Dowling asked that Ms. Olson be prepared to tell the Board why the landlord cut the tree down.

There was no comment from the audience.

Ms. Moran stated that the Township had no position on the application.

Mr. Sirb made a motion to continue the hearing. Mr. Freeburn seconded the motion, and a roll call vote followed: Mr. Freeburn-Aye; Mr. Dowling-Aye; Mr. Sirb-Aye; and Ms. Cate-Aye.

The hearing ended at 7:52 pm.

**Variance Via
Docket #1269**

Applicant: Richard & Cindy Varnecky
Address: 2428 Toftree Drive, Harrisburg, PA 17112
Property: 2428 Toftree Drive
Interpretation: The minimum side and rear yard setback for a detached structure accessory to a dwelling shall be 5 feet in the R-1, Low Residential District.
The applicant proposes to construct a garage one foot from the side property line.
Grounds: Article 307.C, of the Lower Paxton Township Zoning Ordinance pertains to this application.
Fees Paid: August 31, 2009
Property Posted: September 15, 2009
Advertisement: Appeared in The Paxton Herald on September 9 & 16, 2009

The hearing began at 7:53 pm.

Ms. Cate stated it is customary for the Board to enter the application and site plans as Township exhibits. The applicant had no objection to its doing so.

The following were sworn in: Richard Varnecky, applicant; and Dianne Moran, Planning & Zoning Officer.

Mr. Varnecky read the attached letter as his testimony.

Mr. Freeburn stated he visited the site and has no questions.

Ms. Cate asked if the trees to the right will be removed. Mr. Varnecky stated they will not need to come down.

Mr. Dowling asked if the garage will cut into the hill. Mr. Varnecky stated that is correct.

Mr. Dowling asked for a description of the proposed garage. Mr. Varnecky stated it will have cement walls, and will be 21 feet across the front by 24 feet deep. It

will have a peaked roof that faces the street with two dormer windows. The exterior will be siding similar to what is on the house.

Mr. Freeburn stated that the fact that it is going to be built into the hill will soften the effect of a one-foot setback. Mr. Dowling agreed it will be unnoticeable from the street. Mr. Sirb noted that the property owner most affected is agreeable to the variance.

There was no comment from the audience.

Ms. Moran stated that the Township had no position on the application.

Mr. Freeburn made a motion to grant the application as submitted. Mr. Sirb seconded the motion. Mr. Sirb commented that the compelling points of the application are that the structure will not be seen from the street and the adjoining property owner most affected is agreeable to the change. A roll call vote followed: Mr. Freeburn-Aye; Mr. Dowling-Aye; Mr. Sirb-Aye; and Ms. Cate-Aye.

The hearing ended at 8:03 pm.

**Variance Via
Docket #1270**

Applicant: Kathleen Torchia-Travers
Address: 2452 Mercedes Court, Harrisburg, PA 17112
Property: 1351 North Mountain Road
Grounds: Article 601.A.1, and Article 318.C, of the Lower Paxton Township Zoning Ordinance pertain to this application.
Fees Paid: August 31, 2009
Property Posted: September 15, 2009
Advertisement: Appeared in The Paxton Herald on September 9 & 16, 2009

The hearing began at 8:04 pm.

Ms. Cate stated it is customary for the Board to enter the application and site plans as Township exhibits. The applicant had no objection to its doing so.

The following were sworn in: Kathleen Torchia-Travers; and Dianne Moran, Planning & Zoning Officer.

Ms. Torchia-Travers stated that she founded the Opera in Harrisburg as well as several others. When her husband became ill, they moved to this area and made arrangements to perform in the St. Thomas Room, but that is difficult sometimes. They have been looking for a space of their own. An Opera has special needs, so not just any building will do. This opera company will be small. The building on Mountain Road would be perfect, but it has parking problems. The opera company has already joined as a level one member of the Linglestown merchants association. They have also merged with the youth opera. They are participating in the HACC continuing education program in Linglestown. She is teaching some things and the company will be considered their resident opera company.

Ms. Torchia-Travers stated that her students, cast members, and audiences will be visiting the other merchants of the Linglestown area. For this reason, the Village wants the opera company here. The company is scheduled to participate in four programs in the Village. She felt that they would be a catalyst to bring people into the Village. She also noted that they want to be in the Village because they want to be a part of its activities.

Ms. Torchia-Travers stated she has provided the Board with letters from merchants in support of her application. She also has a letter from the current owner of the building and the sale is pending the use approval of the building.

Ms. Torchia-Travers stated she has a great respect for the Township's ordinances, but the Village has large buildings on small lots, so the parking issue is not unique to this lot. She will do everything she can to cooperate with the Township.

Ms. Torchia-Travers stated the daily parking needs are minimal, 2-5 vehicles maximum, and weeks with no one at all there. There are about a dozen days in a year that they will need the extra parking. The Village of Linglestown Committee has told her that there is quadrant parking already in her area, and there will be more to come nearby. Linglestown Life has also offered the use of its parking. Ms. Torchia-Travers stated that Ms. Moran has explained the danger in patrons crossing Linglestown Road. To address that, they are looking into shuttle services and valet services.

Ms. Torchia-Travers stated they will have a great deal of pride in ownership, and the building now is an eyesore. They would like to make it beautiful and add to the quaintness of the Village.

The opera house offers many opportunities and experiences for people of all ages.

Mr. Sirb stated he would like to see the opera there and agreed the building is an eyesore. The parking has to be addressed. He asked what parking is needed.

Ms. Torchia-Travers stated that they estimate they can get 15 spots around the building, and they only need about 5.

Mr. Dowling stated parking requirements are based on the size of the building, and he asked the square footage of the building. Ms. Torchia-Travers stated it is 6,000 square feet. Ms. Moran stated the number of spaces required also depends on the number of seats for patrons, number of players/singers/performers and office personnel.

Mr. Dowling stated the application does not have enough information for the Board to make any decision. The schematic drawing is insufficient. He advised that Ms. Torchia-Travers retain an engineer to do a drawing which will need to show dimensions, how the building will be divided, when people will come there and how. The parking analysis will need to show the dimensions of the spaces, and the flow of traffic.

Mr. Freeburn asked about requirements for off-site parking, with regard to perpetual agreements and proximity to the site.

Ms. Moran stated that the applicant is working with the church on an agreement for parking and the Township has serious concerns with the patrons crossing Route 39, so a shuttle is an option worth considering. She noted that there is a parking area at Koons park designed for use within the Village, and not for any specific establishment. The

problem however is that the opera cannot guarantee they are available because they are for everyone, and when there is a ball game going on, they will certainly be used up for that. Mr. Sirb stated that the fields at Koons Park are used heavily for several sports. He would not vote to allow the parking along the alley. Ms. Torchia-Travers stated that it is not an alley, and there is in fact a strip of land there that is just very overgrown but is very wide. Ms. Moran stated that area may not be used for parking. The alley must remain passable and there is a concrete obstruction at one end. If a car did park there, they couldn't get out without opening the car door into the alleyway. The parking on the other side would actually be on the Eagle property, and would block the circulation in that parking lot. Ms. Torchia-Travers stated they do not really need any of those parking spaces. They would not need anything other than the spaces along the front for 353 days of the year. Mr. Freeburn stated someone can be killed on any one of the days of the year crossing the road. For any of their events, they would utilize the parking that has been offered to them. Mr. Sirb stated that when there is any athletic event the cars park literally everywhere, and the alley is also littered with parking and the area turns into a nightmare.

Mr. Sirb asked if there are really six spaces across the front. Ms. Moran thought there was space for four. Ms. Torchia-Travers stated she has seen six cars parked there.

Mr. Freeburn stated a typical application includes an engineered drawing, based on a survey of the land, and will show the property lines and measurements for the cartway, the right-of-way, and the dimensions of the parking stalls, done in a professional way. Ms. Torchia-Travers stated she is willing to do that.

Mr. Sirb stated he thought the building would be great for their use, but it has its challenges. Ms. Torchia-Travers stated the parking would include handicap spaces. Mr. Freeburn stated the building would need handicap ramps. Ms. Torchia-Travers stated she will do everything that is needed to comply.

Mr. Sirb stated that if the applicant could bring a very precise plan and an agreement for the shuttle, it may have a better response.

Ms. Torchia-Travers asked for a continuance. Mr. Turner asked that a written agreement for the parking at the church also be provided. Mr. Freeburn asked if there has to be a perpetual lease for the use of the parking. Mr. Turner stated the granting of the application could be conditioned in such a way that the variance is only in effect as long as the parking agreement.

Ms. Torchia-Travers stated that the actual theater would only seat 50 people. The St. Thomas Room is the old part of the firehouse.

Mr. Freeburn stated he will have a problem with any plan that calls for pedestrians crossing Linglestown Road to and from parking spaces, even with a shuttle because people will not always wait for the shuttle. Ms. Cate stated that there will only be 50 patrons at an event. Mr. Sirb stated there are no crosswalks or pedestrian crossings

on Linglestown Road, and it is the worst place to try to cross. Ms. Torchia-Travers agreed that certain times of the day it would be bad. Mr. Freeburn stated he runs the alley and crosses Mountain Road in the daylight on a Sunday and it is still extremely dangerous.

Ms. Torchia-Travers stated that she is willing to make it work. Ms. Cate asked if the applicant would be prepared to come back in one month. Ms. Torchia-Travers agreed. Mr. Turner cautioned that an engineer may not be able to put that together that fast. He suggested she stay in touch with Ms. Moran so the application can be put back on the agenda when she is ready.

Mr. Sirb made a motion to continue the hearing. Mr. Freeburn seconded the motion, and a roll call vote followed: Mr. Freeburn-Aye; Mr. Dowling-Aye; Mr. Sirb-Aye; and Ms. Cate-Aye.

The hearing ended at 8:27 pm with the motion for continuance.

Respectfully Submitted,

Michelle Hiner
Recording Secretary