

**SPRINGETTSBURY TOWNSHIP
ZONING HEARING BOARD
AUGUST 6, 2015**

MEMBERS IN

ATTENDANCE: Dale Achenbach, Chairman
Sande Cunningham
David Seiler

ALSO IN

ATTENDANCE: Trisha Lang, Director of Community Development
Gavin Markey, Solicitor
Sue Sipe, Stenographer

NOT PRESENT: James Deitch
Michael Papa
John Schmitt

1. CALL TO ORDER:

A. Pledge of Allegiance

Chairman Achenbach called the meeting to order at 6:00 p.m. and led the Pledge of Allegiance. He introduced the members of the Board.

2. ACTION ON THE MINUTES

A. APRIL 2, 2015

MOTION MADE BY MR. SEILER TO APPROVE THE MINUTES OF JUNE 4, 2015 AS PRESENTED, MS. CUNNINGHAM SECONDED. MOTION UNANIMOUSLY PASSED.

Chairman Achenbach asked Ms. Lang if the case was properly advertised. She responded that notifications had been made.

3. OLD BUSINESS – None

4. NEW BUSINESS

Attorney Markey referred to the Trout Case Z-15-04 presented at the June 4 meeting which was a variance request for a garage on Druck Valley Road. He noted the neighbors who objected to the construction, have filed an appeal through an attorney, Mr. Poole, of the approval of that variance. Attorney Markey consulted with Ms. Lang as well as the Township Solicitor and noted his office will be defending the decision. He noted the Township would take it to the next step which is the Appellant Court. He also spoke to the neighbor and they are trying to decide if they want to be involved in the proceedings.

A. Case Z-15-05 Redeemed Christian Church of God

All witnesses were sworn in.

General Case Summary:

The applicant has not identified any section of the ordinance from which a variance is requested. There are multiple sections of the adopted ordinance which include regulations with which the proposal is inconsistent. These include the following:

Article VIII, R-7 Small Lot Single-family Residential District

§ 325-116.A. Permitted uses. Neither auto sales nor auto storage are listed as permitted uses in the district.

§ 325-116.B. Permitted accessory uses. Neither auto sales nor auto storage are listed as permitted accessory uses in the district

The following sections of the ordinance are supplemental sections which may also impact consideration of the proposal:

Article XXV, Off-street Parking, Loading and Unloading

§ 325-116.K. Surfacing Any off-street parking area shall be graded for proper drainage, and shall be surfaced so as to provide a durable and dustless surface, and shall be paved with concrete or bituminous surface.

§ 325-116.L Detailed plans identifying parking lot lighting shall be provided § 325-116.M Parking lot screening is to be provided around all off-street parking areas

§ 325-116.N Parking lot interior landscaping is required

2009 International Property Maintenance Code Section 302.8 Motor Vehicles Except as provided for in other regulations, no inoperative or unlicensed motor vehicle shall be parked, kept or stored on any premises.

Comments:

The Township has received and continues to receive, complaints about vehicles being parked on the church property. Upon investigation, these vehicles were found to be stock from the nearby Nissan dealership as well as the personal vehicles of employees of the dealership. Attached is a record from the 2014 complaint log that documents one of these complaints and identifies that both parties were informed of the issue and agreed to comply. However, also attached are pictures taken in March and June of this year that show that the dealership continues to utilize the lot on the church property as well as spilling over onto an access drive meant to serve a different property. While some areas of the lot are paved, there are areas where pavement has been removed as well as areas where vehicles are parked on the grass. While the dealership itself is located in a commercial zoning district, the church and all other properties surrounding it are within a residential zoning district which does not allow for this commercial use.

Sections above identify the design requirements associated with establishing a parking lot under the current regulations. The issues of surfacing, screening, and lighting are all valid concerns should an approval of this use be considered. Further, the storage of unlicensed motor vehicles on the premises is a violation of the Township's adopted property maintenance code.

Finally, it is noted that § 325-116.C. of the ordinance allows parking spaces to be located on a lot other than that containing the principal use if approved as a special exception. Board members may recall that this procedure was just recently utilized by the York Christian Church to allow them to meet their parking requirement by placing parking on an adjacent lot. However, these lots were in the same zoning district and the spaces were required to meet the parking obligation per the applicable zoning requirement. It is not clear that this procedure would be applicable to the situation as presented in the current case.

The applicant was not in attendance. Ms. Lang stated the applicant requested to withdraw the application for a variance. Ms. Lang indicated she explained to them that because the property was in violation they would need to bring the property into compliance in order to withdraw. She noted on July 31 they indicated they would have the vehicles removed from the property. Ms. Lang stated she drove by the property earlier in the week and noted the previous volume of cars at that location were no longer there. However, it appeared employee cars are still there.

Attorney Markey indicated in consultation with Ms. Lang, he recommends the Board act on the application to deny the application as submitted for insufficient information, lack of testimony and evidence as required by the zoning ordinance, as well as non-appearance of the applicant.

Chairman Achenbach asked if there was anyone in attendance who wished to contribute to the discussion.

Jean Miller – 1318 East 11th Avenue

Witness was sworn in.

Ms. Miller indicated she owns the property at 1530 East 11th Avenue which abuts the church property. She noted she made phone calls in the past regarding the cars parked on the property, and that the church has changed hands several times in the past 20 years. She indicated she has photos of the cars parked in the lot taken approximately two weeks ago. It was noted that since the photos were taken the cars were removed from the lot.

Chairman Achenbach stated the Board would not need to view the photos since they would not add any substantive information to the situation and the owner of the cars was not confirmed. Attorney Markey concurred adding if the Board accepts his recommendation, the situation will be structured so that the Township can issue an enforcement action which would include fines of up to \$500/day until they come into compliance.

Attorney Markey and Ms Lang concurred that Nissan cannot have offsite parking which prohibits employees using the church's parking lot without a formal agreement.

Chairman Achenbach asked if anyone in attendance was aware of any agreement or approval to allow overflow parking to take place on the church property.

Ms. Miller indicated that she was aware of a verbal agreement between the former Bible Baptist Church and Nissan many years ago. However, the church and congregation have changed numerous times. It was confirmed there was never an approval for the offsite parking from the Township office.

MR. SEILER MOVED IN THE CASE OF Z-15-05 REDEEMED CHRISTIAN CHURCH OF GOD TO DENY THE APPLICATION AS SUBMITTED DUE TO INSUFFICIENT INFORMATION, LACK OF TESTIMONY, LACK OF EVIDENCE AND NON-APPEARANCE OF THE APPLICANT AS REQUIRED BY THE ZONING ORDINANCE. SECONDED BY CUNNINGHAM. MOTION UNANIMOUSLY PASSED.

Chairman Achenbach stated the result of the motion will be that the owner will be required to correct the situation and come into compliance with the provisions of the Township Ordinance and other regulations that relate to the situation.

B. Case Z-15-06 - Whiteford York, LLC

Attorney Jeffrey Esch McCombie, McNees, Wallace & Nurick
Rick Castronio, Project Engineer, Alpha Consulting

General Case Summary:

Article XIV, C-H Commercial Highway District

325-43. Area and bulk regulations

D. Yards. In no case shall the front yard setback be less than 60% of the right-of-way of the street on which it abuts.

(3) Rear yard setback: 30 feet.

Comments:

The applicant is proposing to establish lot lines around the three existing buildings in a strip shopping center located on Whiteford Road. Each lot will contain one structure and the associated parking, access, storm water, lighting and other existing infrastructure will continue to be shared. While the property has “frontage” on Route 30, access to this highway from the property is prohibited. When the project was originally developed, the “frontage for the entire parcel was Whiteford Road and the front yard setback was along this corridor while the rear yard setback was along Route 30. The proposed subdivision will establish Route 30 as the sole frontage for proposed lot #1. As a result, the rear setback requirements are no longer applicable. This is now the front of the lot and is subject to the front yard setback which requires a distance of not less than 60% of the right-of-way of the street on which the lot abuts. [325-45.D]. The 160’ right-of-way of U.S. Route 30 results in the need for a 96’ front yard setback for the proposed lot #1. Approximately one-half of the existing structure would be located in this setback.

The new rear lot line for proposed lot #1 will also be the new rear lot line for proposed lots #2 and #3. Its location is partially driven by the location of the structure on proposed lot #2 and partially by the attempt to ensure the required amount of parking for each structure is available on each lot. The location of the line does not allow for the required 30’ setback for the existing structure on proposed lot #1 [21’ provided] or the existing structure on proposed lot #2 [16’ provided].

Recommendations:

If the findings of Fact and Conclusions of Law meet with the approval of the Board, staff would not be opposed to the applicant’s request.

Attorney McCombie indicated the applicant proposes to subdivide the property at 2900 Whiteford Road into three single lots. Several variances are requested. He reviewed the exhibits, noting Applicant A-1 is the site plan, A-2 is an aerial depiction of the property and the surrounding area and A-3 is the narrative that was included with the application.

Exhibit A-2 (Aerial Photo):

- Shows 2900 Whiteford Road is southwest of the Township Building between Whiteford Road and Rt. 30.
- It is zoned Commercial-Highway and is in an established commercial area.
- Currently holds retail and financial space including Susquehanna Bank and it abuts commercial properties to the east and west.
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Exhibit A-1 (Site Plan):

- Whiteford proposes to subdivide the property so the three current buildings will be on their own lots as the principal building for each lot.
- The Planning Commission was briefed on the project in June and it will be presented to them on August 20.

- The lot lines shown on the plan were chosen because they are the most practical, as it permits each lot to have the requisite parking and includes other site improvements that go along with those lots. However, the lot lines did create the need for the variances requested.
- The property is unique and irregular as shown on A-1 and A-2.
- The prior owners developed it as a unified and coordinated development which included multiple commercial buildings with shared access, shared parking and shared site improvements.
- This lot is an established through-lot with two street frontages although only one of them permits access.
- Whiteford Road to the north is the lone access point, where the center lot on a larger island it is bound by the north and south by Whiteford Road and Route 30 and to the east by Mt. Zion Road. The western boundary is the point of which Whiteford Road and Rt. 30 merge back together and run parallel.
- To properly subdivide the property the applicant requests three dimensional variances. The first two are from §325-43.D. (3). Because Building 1 and Building 2 as shown on the plan they will be set back less than 30 ft. from their respective lot lines. They are also requesting a dimensional variance from section §325-43.D because Building #1 is set back only 50 feet from Rt. 30 whereas buildings that are along Route 30 now are required to be 60% of the right-of-way; 96 feet in this case. Building #1 is a pre-existing non-conforming structure and was built between 1984 and 1993 prior to any Springettsbury Township ordinances requiring the 60% of the right of way setback. He noted there was building conformity with the zoning ordinance at the time and it complied with multiple subdivision and land development plans depicting 50 ft. setback between the years 1982 and 1997.

Attorney McCombie stated the proposal will not alter the character of the C-H district, and it is determined it will enhance the economic strength and create new opportunities. He noted these are the minimal variances required and represent the least possible modification of the regulations.

It was noted the project was presented to the Planning Commission as a sketch plan to provide the opportunity to identify where there was need for relief. At that level the Planning Commission had no issues with the plan or variances requested. The case will be presented at their meeting on August 20 for action.

Discussion was held regarding the frontage. It was noted that frontage is from the perspective of the zoning ordinance which identifies lot frontage as a lot line coincident with a street line. It was pointed out that the applicant is referring to a roadway or street to which they have access, but do not have access to Route 30. However, it was also pointed out under the ordinance as long as it is adjacent abutting a street, access is irrelevant.

Attorney McCombie stated there will be cross access easements between all the lots as well as utility cross access easements which will be reviewed by the Township Solicitor.

It was noted that on the Route 30 side of lot 1 the applicant is required by the ordinance to have a 96 ft. setback and they are requesting a 45 ft. setback.

Attorney Markey indicated he discussed the situation with Attorney McCombie and determined the presentation was well prepared. He noted it appears they are cleaning up a problem that already exists and indicated he has no objections from a legal perspective.

It was confirmed the lot sizes comply they have the required parking for each and have also met the impervious and vegetative cover requirements.

Chairman Achenbach asked if anyone in attendance wished to speak for or against the applicant. Hearing none he called for a motion.

MR. SEILER MOVED IN THE CASE OF Z15-06 WHITEFORD ROAD, LLC TO APPROVE THE DIMENSIONAL VARIANCE FOR §325-43.D TO PERMIT EXISTING BUILDING 1 AND PROPOSED LOT 1 TO BE SET BACK A DISTANCE OF 50 FT. FROM THE FRONT LINE ALONG ROUTE 30. ALSO TO APPROVE THE DIMENSIONAL VARIANCE TO PERMIT EXISTING BUILDING 1 ON PROPOSED LOT 1 TO BE SET BACK 21 FT. FROM THE REAR LOT LINE AND EXISTING BUILDING 2 ON THE PROPOSED LOT TO BE SET BACK 16 FT. FROM THE REAR LOT LINE. SECONDED BY MS. CUNNINGHAM. MOTION UNANIMOUSLY PASSED.

5. ADJOURNMENT

CHAIRMAN ACHENBACH ADJOURNED THE MEETING AT 6:45 P.M.

Respectfully submitted,

Secretary

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