

APPROVED

**SPRINGETTSBURY TOWNSHIP
ZONING HEARING BOARD
MAY 2, 2013**

The Springettsbury Township Zoning Hearing Board held a regularly scheduled meeting on the above date at the Township offices located at 1501 Mt. Zion Road, York, Pennsylvania 17402.

MEMBERS IN

ATTENDANCE: Dale Achenbach, Chair
Michael Papa
Sande Cunningham
Kevin Hevner

ALSO IN

ATTENDANCE: Gavin Markey, ZHB Solicitor
John Luciani, Acting Zoning Officer
Angela Liddick, Director of Community Development
Sue Sipe, Stenographer

NOT PRESENT: James Deitch
John Schmitt
David Seiler, Alternate

1. CALL TO ORDER:

Chairman Achenbach called the meeting to order at 6:00 p.m. He introduced the members of the Board. It was noted that Mr. Hevner would be filling in as a voting member for this meeting.

Chairman Achenbach led the Pledge of Allegiance.

2. ACTION ON THE MINUTES:

A. April 4, 2013

MOTION MADE BY MR. PAPA, SECONDED BY MS. CUNNINGHAM TO APPROVE THE MINUTES OF APRIL 4, 2013 AS PRESENTED. MOTION UNANIMOUSLY CARRIED.

Chairman Achenbach asked Ms. Liddick if all cases were properly advertised. She responded that notifications had been made.

Chairman Achenbach noted the applicants agreed to the expedited process for presentation.

3. OLD BUSINESS - NONE

4. NEW BUSINESS

A. Case Z-13-02 Integrity Bank

Attorney Jeffrey Lobach
Jim Gibson, CEO Integrity Bank
Jim Snyder, Project Engineer

All witnesses were sworn in.

General Case Summary:

ARTICLE XXXII, Administration and Enforcement

§ 325-193. Nonconforming uses and structures.

A. Continuation. Any lawful use of a structure or land existing at the effective date of this article may be continued, although such use does not conform to the provisions of this chapter.

Article XIII, M-U Mixed Use District

§ 325-38E(2) – Maximum Front Setback 35 feet (Mixed Use Zone)

Article XXXIII, T-C Town Center Overlay

§ 325-199D and F – Maximum Front Setback – 50 feet (Town Center Overlay)

§ 325-200G(5) – Parking in rear and side yards only

Comments: The applicant is requesting an interpretation that use of the front yard of the property along East Market Street and the designation of parking spaces in the front yard may be continued. This variance will be associated with a future land development plan for an Integrity Bank branch to be constructed on the parcel. Front yard parking is not permitted in the Mixed Use zoning district, nor the Town Center Overlay.

The applicant is also requesting two variances:

1. For relief from the maximum front yard setback to permit the building face 84 feet from curb. The maximum front yard setback in the Town Center Overlay district is 50 feet.
2. Variance to permit parking in one of the two front yards. Parking is not permitted in the front yard of the Mixed Use zoning district, nor the Town Center Overlay. This property is located on a corner which gives them two front yards, by definition.

Recommendations:

Plan conforms to setbacks and front yard criteria along S. Northern Way. Plan does not conform to Town Center Criteria along Market Street except the front door does face the street. The applicant has agreed to provide pedestrian/ traffic improvements along Market Street and S. Northern Way which are not shown on the plan. If the Zoning Hearing Board is supportive of the application, conditions should be included for Town Center Overlay features including sidewalk/grass strip, benches, and street trees.

Attorney Lobach stated the property is located at 2700 East Market Street in the Town Center Overlay portion of the Mixed Use zone, at the southwestern corner of the intersection at Northern Way and East Market Street. It is presently occupied by the All Tune automobile service center. The applicant is proposing to use the property to operate a branch bank with a drive through.

Attorney Lobach distributed the exhibits:

- Exhibit #1 –a view of the location of the property
- Exhibit #2 – an aerial photo of the proposed site as it currently exists showing the location of the existing parking area.
- Exhibit #3 – Existing Conditions plan which shows the current property with the service center. Attorney Lobach noted almost the entire surface is impervious. There are four driveways – two are close to the intersection - the other driveways are farther to the west and one to the south. The frontage is narrow at 143 ft.
- Exhibit #4 - Shows the site concept plan. Attorney Lobach stated the building orientation will be the same, however, the footprint will be reduced from 6500 sq. ft. to approximately 4000 sq. ft.
- Exhibit #5 - The Town Center Overlay has a maximum building setback line meaning that it cannot be set back more than a certain distance. In this case it would be 50 ft. along Northern Way and along East Market Street. This proposal complies fully with the setback on the front yard in the Northern

Way side but the distance is 84 ft. on the East Market Street side. The Town Center Overlay also has another requirement which prohibits parking in front yards. The applicant is proposing to have parking on East Market St., but would eliminate the non-conformity of parking on the Northern Way side.

- Exhibit #6 - The property would be operated as a branch bank with a drive-through as shown which has already been approved by the Zoning Hearing Board.

Attorney Lobach indicated they will eliminate the two driveways around the intersection, keeping the other two access points farther from the intersection. The building will be facing E. Market Street and will comply with the township requirements in terms of street scape for wider sidewalks.

Attorney Lobach reviewed the interpretation request to address the issue with the front yard parking and the failure to comply with the maximum building setback. He noted the applicant's position is that the front yard parking is an existing non-conforming use and they will be reducing the square footage from approximately 6500 sq. ft. to about 5800 sq. ft.

Attorney Lobach stated in addition to that interpretation request they are requesting two variances. One is to permit the front yard parking and the second is to exceed the maximum set back to 84 ft. instead of 50 ft.

Mr. Luciani reviewed the goals and objectives of the Town Center Overlay. He noted the Township is recommending a condition to include Town Center Overlay features for a conforming pedestrian pathway.

Attorney Markey reaffirmed the case was in front of the board previously and at that time the applicant did not have the benefit of counsel to evaluate the predicates for the granting of variances and the pre-existing non-conformity concept. He noted they have since appointed counsel and have prepared more detailed testimony regarding the criteria for satisfying the variance, which allows the Board to more effectively evaluate the justification for the granting of variances. Attorney Markey also noted that at the previous proceeding a different zoning officer was in place that had different beliefs regarding the implementation of the Town Center Overlay. Attorney Markey recommended if the Board is inclined to approve the request, they should consider denying the interpretation request regarding the parking in the front yard because an interpretation is going to lend itself to creating precedent in the future. That would allow the Board to approve the two variances, supplementing the approval with a condition for the Town Center Overlay features including sidewalk/grass strip, benches and street trees.

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

MR. PAPA MOVED IN THE CASE OF Z-13-02 TO DENY THE INTERPRETATION REQUEST TO FIND THAT THE PARKING IN THE FRONT YARD IS A PRE-EXISTING NON-CONFORMING USE. SECONDED BY MS. CUNNINGHAM. MOTION UNANIMOUSLY PASSED.

In regards to the request for variances, Attorney Markey restated the issues based upon the denial of the interpretation.

MR. PAPA MOVED IN THE CASE OF Z-13-02 TO GRANT THE FOLLOWING VARIANCES: §325-199D AND F FOR THE MAXIMUM FRONT SETBACK TO EXCEED 34 FEET FROM THE 50 FOOT TOWN CENTER OVERLAY WHICH WILL ALLOW AN 84 FT. SETBACK. §325-200G(5) TO ALLOW PARKING IN THE REAR AND SIDE YARDS ONLY WITH THE FOLLOWING CONDITION:

- **COMPLIANCE WITH §325-200 CONDITIONAL USE DESIGN STANDARDS TO INCLUDE THE TOWN CENTER OVERLAY FEATURES INCLUDING SIDEWALK/GRASS STRIP, BENCHES AND STREET TREES.**

SECONDED BY MR. HEVNER. MOTION UNANIMOUSLY CARRIED.

B. Case Z-13-03 Domas York, LLC

Ray Baublitz

Witness was sworn in.

General Case Summary:

ARTICLE XII, Neighborhood Commercial Districts

§ 325-32. Uses by special exception and conditional uses.

C. Uses by special exception and conditional uses.

(1) Boardinghouses.

The criteria that must be met for a boarding house permitted as a special exception are as follows:

325-165. Boardinghouses.

Boardinghouses are allowed by special exception in the R-1, N-C, N-C/H and M-U Districts, subject to the following regulations:

A. A boardinghouse shall meet the minimum lot size and other area and bulk requirements for single-family detached dwellings of the base zoning district.

B. The minimum off-street parking requirements shall be determined on the basis of two spaces plus one space for each room available for rent.

C. If meals are to be served, the applicant shall demonstrate compliance with all applicable food-handling requirements of the York County Health Department.

D. The applicant shall demonstrate that all necessary approvals and permits from the Pennsylvania Department of Labor and Industry have been obtained or waived. The Zoning Hearing Board may, in the alternative, authorize approval of the special exception contingent upon the requisite approvals from the Department of Labor and Industry being obtained.

Comments: The applicant is requesting a special exception to allow rooms (room rentals – boardinghouse) to be rented on a weekly basis to individual occupants. Based on a discussion with the applicant on April 24, 2013, he indicated that 15 individuals could be housed at the site. The Zoning Ordinance requires per § 325-165.B. two spaces plus one space for each room available for rent (17 parking spaces for this particular application). A plan delineating the parking space location, size, and travel ways must be provided including spaces that meet the American with Disabilities Act (ADA) requirements. At the submission of this briefing, no plan has been provided.

Recommendations: If the Zoning Hearing Board is supportive of the application for a special exception, § 325-32.C.(1) Boardinghouses, conditions should be included for the following: building permit approval, floor plan detailing number of units and layout, and a certificate of occupancy.

Mr. Baublitz noted, upon reviewing the recommendation from Mr. Luciani, he prepared drawings which outlines the parking on their property and the building floor plan. He stated the property would be used to establish a rooming house with weekly rentals or longer. Mr. Baublitz indicated he operates a similar house in Spring Garden Twp. known as the Manor House. The building will require no alteration and already has emergency lighting, handicap accessibility, fire and smoke alarms on every floor and in every room. There is also a fire escape and a security system in place. Some painting will be done as well as clean up on the grounds.

Mr. Baublitz stated there will be no food prepared at the site. There are no appliances in what was previously the kitchen. It will be used solely as a storage room.

Mr. Luciani stated he would recommend a condition for the applicant to provide an engineered site plan to show the location of the property line and confirmation that the parking meets the criteria.

Attorney Markey indicated the applicant would be entitled to an approval of the special exception if the Board determines the applicant has satisfied the specific criteria, ruling out the possibility of threat to the public health, safety and welfare are by virtue of the granting of this special expectation. Attorney Markey recommended if the special exception is granted, it be subject to conditions including the applicant shall provide a site plan with specifics including property line description and parking lot layout, and provide a building permit approval, floor plan detailing the number of units and layout, and a certificate of occupancy.

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

MS. CUNNINGHAM MOVED IN THE CASE OF Z-13-03 TO GRANT THE SPECIAL EXCEPTION UNDER §325-165 FOR THE BOARDING HOUSE, WITH THE FOLLOWING CONDITIONS:

- **PROVIDE A SITE PLAN WITH SPECIFICS INCLUDING PROPERTY LINE DESCRIPTION AND PARKING LOT LAYOUT.**
 - **PROVIDE A BUILDING PERMIT APPROVAL, FLOOR PLAN DETAILING THE NUMBER OF UNITS AND LAYOUTS AND A CERTIFICATE OF OCCUPANCY.**
- SECONDED BY MR. HEVNER. MOTION UNANIMOUSLY CARRIED.**

C. Case Z-13-04 First Capital Federal Credit Union

Attorney Peter Solymos

Jim Barnes, Engineer

Dennis Flickinger, CEO First Capital FCU

General Case Summary:

Article XIII, M-U Mixed Use District

§ 325-37.A.24. Financial institutions, without drive-through facilities.

Comments: The applicant is requesting a variance to allow a drive through at the proposed financial institution. This property is located at the Northeast corner of Eastern Boulevard and Northern Way, formerly the IRS building site. The underlying Mixed Use zoning district does not permit drive through facilities.

Recommendations: If the findings of Fact and Conclusions of Law meet with the approval of the Board, staff will not oppose the applicant's variance request from Section 325-37.A.24. to allow a drive-through facility.

Attorney Solymos stated his client is proposing to establish a financial institution at 2801 Eastern Blvd. which is at the northeast corner of Northern Way and Eastern Blvd. This is the site of the former IRS building, and is a ½ acre tract, approximately 26,000 sq. ft. The building is vacant at the present time. The proposal is to provide modifications to the existing building. Attorney Solymos indicated that although financial institutions are authorized in the mixed use zone, the Town Center Overlay states they have to be walk in facilities. Attorney Solymos stated his client is requesting a variance allowing them to add a drive-through on the site. He noted the applicant can meet all the criteria as provided by §325-37 and 38.

Attorney Solymos noted there are at least eight other financial institutions with drive-throughs within less than ½ mile in the Mixed Use zone. He noted the Town Center Overlay requirement creates a hardship for his client since it will prevent the bank to optimally serve their customers if they do not have a drive-through facility. Attorney Solymos stated the hardship is unique and not self-created and not financial in nature. The granting of the variance will not alter the essential character of the neighborhood, nor

constitute a risk of general health, safety and welfare. It was proposed that the modifications will bring the building up to modern specs to make a better use than what was there previously.

Mr. Luciani stated the layout of the building will allow parking to be behind their building. He noted the Township was satisfied that the criteria for the Town Center Overlay with regards to economic viability, pedestrian improvements and traffic improvements was met.

Chairman Achenbach stated there are three districts in the Ordinance that refer to financial institutions - one with no drive-through, one with drive-throughs and one broadly stated. He stated it was vague as to how these distinctions are applied when going from a Mixed Use zone to a Neighborhood-Commercial zone. This may lessen the concern for allowing a drive-through in this area.

Attorney Markey concurred with Chairman Achenbach's findings.

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

MR. PAPA MOVED IN THE CASE OF Z-13-04 TO GRANT THE VARIANCE FOR THE DRIVE THROUGH FAILCITY UNDER §325-37.A.24. MOTION SECONDED BY MR. HEVNER. MOTION UNANIMOUSLY CARRIED.

5. ADJOURNMENT

Chairman Achenbach adjourned the meeting at 7:10 p.m.

Respectfully submitted,

Secretary

/ses