

APPROVED

**SPRINGETTSBURY TOWNSHIP
ZONING HEARING BOARD
FEBRUARY 3, 2011**

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
John Schmitt
James Deitch
Michael Papa
Sande Cunningham

NOT PRESENT: Teresa Johnescu

ALSO IN

ATTENDANCE: Gavin Markey, ZHB Solicitor
Jim Baugh, Director of Community Development/Zoning Officer
Sue Sipe, Stenographer

1. CALL TO ORDER:

- A. Chairman Achenbach called the meeting to order at 6:00 p.m. He introduced the members of the Board and led the Pledge of Allegiance.
- B. 2011 Zoning Hearing Board Reorganization of Officers

MOTION MADE BY MS. CUNNINGHAM TO ACCEPT THE FOLLOWING SLATE OF OFFICERS FOR 2011:

**CHAIRMAN – DALE ACHENBACH
VICE CHAIRMAN – JAMES DEITCH
SECRETARY – JOHN SCHMITT**

MR. DEITCH SECONDED. MOTION UNANIMOUSLY CARRIED.

MOTION MADE BY MR. SCHMIDT TO RE-APPOINT ATTORNEY GAVIN MARKEY AS TOWNSHIP SOLICITOR FOR 2011. MR. DEITCH SECONDED. MOTION UNANIMOUSLY CARRIED.

2. ACTION ON THE MINUTES:

- A. November 4, 2010

MOTION MADE BY MR. PAPA, SECONDED BY MR. SCHMIDT TO APPROVE THE MINUTES OF NOVEMBER 4, 2010 AS PRESENTED. MOTION UNANIMOUSLY CARRIED.

Chairman Achenbach asked Mr. Baugh whether or not all cases had been properly advertised. He responded that all notifications had been made.

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

3. OLD BUSINESS - NONE

4. NEW BUSINESS

A. Case Z-11-03 Darin Monroe - 3803 Woodwick Circle

Susan Monroe

All witnesses were sworn in.

General Case Summary: The ordinances are provided: 325-20 Area and bulk requirements.
C. Detached single-family dwelling: Rear Setback = 35 feet.

Comments: The applicant is requesting a variance to construct a deck that is set back 11 feet from the rear property line. The R-10 zoning district requires a minimum setback of 35 feet. This home is located in the Wallingford development. At the time that the Wallingford development was being subdivided, they were approved under the open space provision. This allowed a rear setback of 17.5 feet. The difference requested is 6.5 feet.

Recommendations: If the findings of Fact and Conclusions of Law meet with the approval of the Board, Staff would not oppose the applicant's request.

Mrs. Monroe stated they are applying for a variance to build a deck off the back of their house, which is located on a cul-de-sac and therefore has a large amount of common area out the back extending into Eastern Boulevard with no houses in between. Consequently, they are proposing to build the deck closer to the back property line than permitted. The variance is 6½ feet. Mrs. Monroe noted the house was built this past year and they moved in April 2010. There are other decks in the neighborhood and their proposed deck would be of similar proportion.

Mr. Baugh noted there is no record of other residents in the area needing a variance to allow for a deck. He also noted the property in question is considered to be a unique situation.

Mrs. Monroe confirmed that the proposed deck would not change the nature of the neighborhood.

Attorney Markey stated he had no objections to the granting of the variance and agreed with the zoning officer's recommendation.

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-11-03 TO APPROVE THE VARIANCE FOR ARTICLE 325-20 WITH A SETBACK DIFFERENCE OF 6.5 FEET. SECONDED BY MR. DEITCH. MOTION UNANIMOUSLY CARRIED.

B. Case Z-11-01 John Skeparnias

Lou Skeparnias

Witness was sworn in.

General Case Summary: The Applicant is requesting a variance to install a roof sign at the above referenced location. The ordinances are provided:

Roof – The exterior surface and its supporting structures on the top of a building.

Roof Sign – an attached sign that is partially or wholly attached to, erected on, or supported by the roof of a building or structure.

325-105. Prohibited Signs

N. Roof Signs

Comments: The Applicant is requesting a variance to permit roof signs at 1701 Whiteford Road for all future businesses that lease at that location. The current zoning regulations prohibit roof signs.

Recommendations: Staff has not been provided adequate information in the application to make a recommendation on the applicant's request.

Mr. Skeparnias indicated he was present at the November meeting at which time signage at the corner of Route 30 and North Hills Road for Subway was presented for a variance and approved. Mr. Skeparnias noted at that time they were seeking to have the two signs located on the same building approved as a continued use. However, they were requested to come back with a variance. Consequently, they are requesting a variance to retain the two signs on the building - Formprest Cleaners and Freedom Wireless, to allow those signs to remain next to the approved Subway sign.

Mr. Skeparnias stated the tenants are the same, but were moved to another part of the building to make room for Subway.

Mr. Achenbach noted that at the meeting in November an extensive discussion was held regarding the unique character of the roof and what represented roof, and also if the signs should be dealt with on a one-by-one basis so as the need arose, a variance would be requested for each one.

Attorney Markey concurred and noted that the minutes indicate various options were offered for the applicant to follow.

Mr. Baugh confirmed it was the intention that if a new tenant came in, the sign structure would need to remain the same but the name could be changed within the confines of the sign so the applicant would not have to apply for a variance.

Attorney Markey asked the applicant if it was his intention to utilize the content of the currently existing signs for Formprest and Freedom Wireless, and as part of the request in the future he would honor the confines of those signs and if the tenant changes would not exceed those signage dimensions.

Mr. Skeparnias said yes.

Mr. Deitch stated that he recalled from the November meeting that the sign would be a light box type treatment. He asked the applicant to confirm if he was simply changing the face of the light box to a different name, and not altering the character of the light box or the dimensions or the physical placement on the roof in order to be able to change signs without going through a variance request.

Mr. Skeparnias affirmed that was their intent, noting their approach is to retain the signs as they are. He stated their intent is to continue the signs so tenants can continue to maintain their business. He agreed to amend his application to that intent that they would not change the physical location, structure or size of the signs.

Attorney Markey recommended if the Board was inclined to approve the request, that the discussion be included in the motion as a condition.

Mr. Skeparnias requested a copy of the final decision of the Board for his records.

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. DEITCH MOVED IN THE CASE OF Z-11-01 TO APPROVE THE VARIANCE FOR §325-105, WITH THE CONDITION THAT THE DISCUSSION OF BOTH COUNSEL AND THE ZONING HEARING BOARD WITH THE APPLICANT, AS DOCUMENTED IN THESE MINUTES BE INCORPORATED IN THE APPROVAL TO SUBSTANTIATE THE APPLICANT HAS AFFIRMATIVELY AGREED TO THAT DISCUSSION AS PART AND PARCEL TO THE VARIANCE. SECONDED BY MR. SCHMIDT. MOTION UNANIMOUSLY CARRIED.

Mr. Baugh noted that Staff offered to allow the applicant to improve another building at the intersection of Eastern Boulevard and Haines Road with this building in one application. He suggested that if the Board was in agreement, they could both be approved at this time.

MR. DEITCH MOVED TO AMEND THE MOTION TO INCLUDE THE APPROVAL OF SIGNS FOR THE BUILDING AT THE CORNER OF EASTERN BOULEVARD AND HAINES ROAD FOR THE APPLICANT. SECONDED BY MR. SCHMIDT. MOTION UNANIMOUSLY CARRIED.

It was recommended to the applicant to work with Mr. Baugh and Staff to provide specificity to the application in order to avoid putting the Staff in a tenuous position.

C. Case Z-11-02 Stan Watroba, Doug Barton

Doug Barton,
Christine Rossi, Architectural Designer

Witnesses were sworn in.

General Case Summary: The ordinances are provided:

325-34 Area and bulk requirements.

E. Height. Heights shall not exceed those specified in Chart 325-34 (35 feet in this instance). The following are exceptions to the maximum heights:

- (1) Projections allowed: Chimneys, flag poles, satellite dishes, lightning rods, vents and other similar items with at width, depth or diameter of three (3) feet or less may extend above the height limit, as long as they do not exceed five (5) feet above the top of the highest point of the roof. If they are greater than three (3) feet in width, depth or diameter, they are subject to the height limit.

F. Off-street parking. Parking space, off-street, shall meet regulations as set forth in Article XXV herein.

325-114 Minimum Parking Space Requirements. All residential dwellings: 2 spaces per dwelling unit.

Comments: The Applicant is requesting a variance to construct an apartment building that is taller than permitted, with fewer parking spaces than are required. The Applicant is planning on constructing a mixed-use apartment building intended for the 55+ community, which will include apartments on the upper levels and a mix of uses on the ground level for use by residents only. The zoning ordinance limits the height of multi-family dwellings to 35 feet. The applicant is asking for a variance to build a 105 foot tall building.

In addition, the applicant is requesting a variance to allow a reduction in the parking requirements of the proposed building. Our ordinance requires two spaces per dwelling unit. The applicant is requesting a 5% reduction in the parking requirements with 6% of the installed space to be compact (8' x 18').

Recommendations: Staff is very supportive of this project. However, the magnitude of the height variance is of concern. The maximum height on the other side of Memory Lane in the Mixed Use District is 45 feet. And on the opposite side of Pleasant Valley in the Commercial Highway District the height maximum is 100 feet. This location in the Neighborhood Commercial District is limited to 35 feet. The Neighborhood Commercial District in this area serves as a buffer between the Commercial Highway and the (R-10) Medium Lot Single Family Residential Districts.

If the Board was inclined to grant a variance in this case staff would request a condition that the building be utilized only for over 55 years of age residences and the associated uses indicated on the first floor.

Staff does not oppose the variance for the proposed parking requirements for this type project.

Ms. Rossi provided a sketch of the proposed building located at 1673 Memory Lane. She indicated they have been asked to explain why it would necessary to have an eight story building for this site. Ms. Rossi noted the objections raised have been the various adjacent uses of residential in the district R-10, Mixed Use and Commercial. She stated they believe no sound hardship would be created with a tall building, noting the height aids in keeping the apartment units affordable for interested residents. In relationship to the adjacent sites, the level of the topography is lower than the property to the east, Metzo Minerals, so the stated height would not seem as obtrusive. The uses to the west are mixed use so a tall building would not necessarily cause hardship to a commercial use. To the north there is one residential property already on an elevated level to which their building would be sitting down hill. She noted they would be doing significant site work that would drop the elevation down. As provided in the sketch, Ms. Rossi indicated they would be leveling the site to provide accessibility and ease of parking. This would also drop the current elevation down several feet to bring the height of the building a few stories below the adjacent properties to the north. There will be screening on all sides, but it will not be anything overpowering or dominating to the residential uses to the north.

Ms. Rossi confirmed they are located to the west of the Metzo building and that site sits approximately 20 feet higher. Going down Pleasant Valley Road the grade drops significantly.

Mr. Baugh noted that Staff is supportive of the project, since their belief is that this would be an asset to the Township. However, the magnitude of the height variance requirement causes great concern. If possible, they would like to work with the applicant in some way, possibly considering underground parking or other modifications to make it more palatable to neighbors and also with the ordinance. Mr. Baugh acknowledged the comprehensive plan does advocates this type of project and that it is allowed in other areas.

Ms. Rossi stated the building will be set back over 105 feet. on all three sides – 95% in the rear. The building will have screening around on all sides. The roof elevation is at 83 feet. There is a parapet at 10 feet. to help hide mechanical units. The additional height is for the projections, so the majority of the building is not at that extended height, but it is meant to keep the character of the building in line with the surrounding areas, and to keep the architectural integrity and not leave unsightly mechanical units exposed. Ms. Rossi also stated that if the building were made significantly shorter, the rent for the units would go up. They are anticipating this building to be an affordable option for the residents of Springettsbury, consequently the more the height is brought down, the more the price goes up and the less it becomes a viable project. This would preclude the idea of adding underground parking for the same reason.

Mr. Baugh responded to a question regarding height relating to different zoning areas and restrictions, noting there is no safety issue involved.

Discussion was held regarding the following:

- Consideration of other methods dealing with the mechanicals, either locating them at a lower elevation or doing some type of work in the treatment to reduce 15-18 feet from roof line to top to

hide the mechanicals. Ms. Rossi responded that certain things like elevator shafts and stair shafts can not be made any smaller. While they will have mechanical units down below, it is inevitable that there will need to be units on the roof. They are considering using solar panels and that would be as much surface area as could possibly fill on the roof but do not want those to be exposed. They do not want to assume they can do this in 80-90 feet. and then have those units exposed later down the line because it is not until the building is designed that those units can be sized to know how far and where they have to be located.

- Since the setbacks are more than they need to be, could the applicant consider reducing the floors and make the setbacks conform to the ordinance – putting more ground apartments and lower the floors. Ms. Rossi stated this would not allow getting in all the required parking, noting they are already asking for a reduction in parking.
- Consideration of expanding the footprint of the building as to what the trade off would be in terms of reducing it by one floor. How would the footprint change and what the impact would be on the number of parking spaces. Ms. Rossi stated that circulation-wise it is already a very long and broad building. It has four staircases and the more the footprint is increased, the more they would be increasing the egress distance for users to get to a safe fire route. The more they increase it in length, the more they would have to add additional staircases and additional safety features that are already pushing a constrained site.
- Whether it is fair for the Board to take into consideration the desirability of the use of this project in determining whether or not it affects the ability to grant a variance. Attorney Markey stated in the variance criteria there is consideration of promotion of public safety, health and welfare. He noted that welfare could be considered as a part of that concept, if it is determined that it is not detrimental and that it is actually promoting some good or benefit for the municipality. Although the variance criteria are numerated within the ordinance, there is introductory language that says where relevant in a given case to allow flexibility in the determination when reviewing a project.

Ms. Rossi reviewed the second variance requested for a 5% reduction of parking since it is a gated community, 55 and over exclusively. Ms. Rossi stated their thought is because of the type of residents anticipated they don't anticipate a packed parking lot at any given point in time and it is not open to the public. They are also asking that 6% of those spaces be compact spaces, which is a foot smaller than the typical parking space. Ms. Rossi confirmed they are at the limit for the parking of the 75% coverage on non-permeable coverage.

Discussion was held regarding residents in this building who may own campers, boats, etc., as to whether they would be able to park them on the property. Ms. Rossi indicated they would not be allowed in this space unless they are occupying one of the private garages and the item would fit the requirements of the garage.

Attorney Markey indicated there are internal regulations within the zoning ordinance that would prohibit outdoor storage of campers, trailers, etc. so they would naturally be eliminated by zoning. He also noted if the project would move forward the township would have the ability as part of the land development plan to explore with the applicant restrictions and restricted covenants that could be recorded as part of the project to address those concerns.

It was noted that a typographical correction in the date of the plan is needed, to correct it from December 6, 2011 – to 2010.

It was also noted in the variance request for height, the limitation is 35 feet. and the application notes 93 feet., which would be 58 feet. not 48 feet. With mechanicals / projections the height is 105 feet.

Chairman Achenbach asked if there was anyone in attendance who wished to speak for or against the applicant.

All residents who wished to speak were sworn in.

John Sprenkle – 1791 Memory Lane Extended

Mr. Sprenkle indicated he has lived there 48 years and was present to petition the ZHB to require the applicant adhere to the current zoning height and parking regulations. He read §910.2 of the PA Municipal Code. He referred to various cases. Mr. Sprenkle voiced his concern about the applicant not meeting the criteria for granting a variance regard height of the building. .

Ed Mann – 1820 Ottawa Road

Mr. Mann asked for confirmation on the number of units being 280 units. He expressed concern about the height of the building and the amount of parking spaces as determined by the zoning ordinance. He also stated concern with a building eight stories high with 55+ residents from the standpoint of fire safety and if the fire company would have adequate fire equipment to handle a fire situation. He also questioned what would ensure this would be 55+ community.

Attorney Markey stated the zoning officer has recommended that condition be placed to limit the building to 55 and over.

Discussion was held regarding the public safety aspect of the development to ensure there is sufficient fire equipment for an eight story building to address the resident's concern.

Mr. Baugh stated he was not sure if YAUFRR, the regional fire department has that apparatus, but was sure the York City Fire Department does. Mr. Baugh stated the applicant would be required to comply with criteria set by the state which is based on the international building codes.

Mr. Mann also expressed concern about traffic.

It was noted a traffic study will be submitted by the developer as part of the land development process, in addition to any necessary improvements to the intersection.

Attorney Markey also commented that developer would be bound by the traffic study and the recommendations of the township engineer, evaluations performed by the fire service, and all applicable codes.

Frank Miller – 1964 Woodstream Drive

Mr. Miller asked if as part of the conditions of the variance would there be a time limit that the building would be stipulated as a 55+ community.

Mr. Baugh stated it would be forever.

Mr. Miller asked the Board to consider the Township's ability to adequately provide fire safety for the occupants.

Hazel Zettlemoyer – 1904 Woodstream Drive

Ms. Zettlemoyer asked as a follow up to the 55+ stipulation for the community being forever, if the building sits empty or there are too many units which are not being filled, can the applicant come back and request a variance to get it changed.

Attorney Markey indicated that the law provides where there is a condition imposed upon an approval, applicants coming back to request an alteration to that condition, must show there are changed conditions which do not relate to financial matters. It would have to be conditions that would change with respect to

the surrounding area, i.e., the area suddenly becomes apartment complexes that are not 55+. Consequently the applicant would request relief because of the surrounding area.

Ms. Zettlemoyer also expressed concern with maintaining the present environment by changing the topography of the land with water runoff and concern about whether the township water and sewer system could handle this addition. She referred to the verbiage under traditional neighborhood overlay guidelines and Article 15 noting the listing of guidelines to be followed. She felt the area would lose the traditional town and village character with a 100+ feet. building plus the volume of people, traffic and parking spaces.

Kathleen Sacarellos – 1900 Memory Lane Ext.

Ms. Sacarellos asked to confirm that the burden of obtaining a variance is on the developer and he must impart and show that the land has a hardship as opposed to the developer having a hardship.

Attorney Markey confirmed that is correct.

She also expressed concern about whether this land that would qualify as having a hardship, as well as concern about traffic with small children in the area. She questioned the wisdom of adding so many residents and how that will affect traffic.

Brent Ames 1851 Idyllwild Road

Mr. Ames indicated he agreed with everything stated against the development. His main concern was the variance for the extra 70 feet in height and how that will change the complexion of the area and other resources in the township.

Mark Challis – 1937 Hawthorn Road

Mr. Challis indicated he strongly objects to the project. He requested the ZHB deny the variance and the project.

Truman Allison – 1921 Memory Lane Ext.

Mr. Allison commented about the 70 feet. increase in addition to 35 feet. allowed already. He also questioned if there were restriction on income guidelines or requirements.

It was noted there are no income restrictions.

Charles Hancock - 2072 Ridgewood Road

Mr. Hancock commented on the hardship that would be created with regard to the traffic. He noted he was hopeful that the Board goes against the variances.

Nancy Karkoska – Woodstream Drive

Ms. Karkoska commented about the height of the building and relation to how it will compare with sizes of surrounding buildings. She expressed the tallness of the building will significantly impact not only the neighborhood and natural settings, but also the resources of Springettsbury Township and other environmental impacts as well. She opposed the project and asked the Board to decline the variances.

Demi Sacarellos

Mr. Sacarellos indicated he is one of the landowners for this property, representing Poppy Lane Ventures. He indicated the tract is up from the corner on Memory Lane and is approximately 3 acres. Mr.

Sacarellos stated he wanted to be the voice for the project in relation to business and economy. He pointed out the following benefits:

- Services would not be much affected due to the age of the residents
- There is no additional bearing on the school district.
- Limiting on police forces.
- Limited amount of traffic, calculating one additional trip per day for each unit due to the 55+ community. Whereas a single family might have about 4-5 trips.

Mr. Sacarellos also mentioned the potential on neighboring property for additional development.

Hazel Zettlemyer

Ms. Zettlemyer questioned the rationale for one trip a day for 55+ which Mr. Sacarellos mentioned.

John Sprenkle -1791 Memory Lane Extended

Mr. Sprenkle voiced his opinion that not enough facts exist on record to grant the variances.

Discussion was held concerning the 55+ restriction on the building and the possibility that the building could sit vacant if its use is restricted to forever, and that it could be difficult to enforce the restriction on a granted variance.

Mr. Baugh referenced the existing retirement housing at the corner of Eastern Blvd and Cinema Drive that was filled before it was constructed, noting there is a great demand for 55+ housing.

Attorney Markey stated in acknowledging that the applicant has the burden of proof to provide sufficient evidence through testimony of witnesses to satisfy the criteria for the granting the variance, there may be other testimony produced that the applicant may not have addressed. This could include traffic concerns expressed by opposition and if there have not been traffic issues placed in the record as part of the initial evidence presentation, there is a void with respect to whether or not they have satisfied their burden of proof or have adequately made their case. Attorney Markey stated the Board will need to determine if the applicant has legitimately carried their burden to assure there will not be a traffic problem, for instance, or there will not be a detriment to the health, safety and welfare of the community. The question that is essential in this matter is whether or not the Board believes that the applicant has satisfactorily proved there is a hardship with respect to the property that legitimizes or necessitates the requests they have made.

Discussion was held regarding if it is economic motivation that is driving this building to its designed height. It was also pointed out in a case where the magnitude of the variance requests is 200% of the permitted height, that the applicant should have a greater set of experts or factual material that would demonstrate the various factors of hardship of the topography, the size and shape of the plot, etc.

Stan Wotroba - 2337 Deininger Road (One of the Applicants)

Mr. Wotroba stated the property is zoned 30 units an acre and the topography on changes 30 feet. from one end to the other either east to west or north to south. He noted to get 30 units per acre in regular apartment buildings on 9 acres and supply the amount of parking creates a hardship. Mr. Wotroba expressed the goal of the project is to economically allow rent for people to live there which would include all utilities. He noted the following additional information:

- Security would be heightened since it would be only one building. An access code is required to enter the building.
- The entire building would be fenced and planted with 10 feet. Layland Cypress which grow 3 feet. per year.
- There may be a need for a traffic light which they would provide.
- The main entrance and egress will be at the Metzo Minerals creating a new street. Coming off Memory Lane it would be right-in, right-out only.

– There would be gated entrance.

Mr. Wotroba further commented the concept of the building has been given a lot of thought and this is the type of housing that is in demand.

The Board acknowledged the validity of the applicant's comments, but stated their concern that the applicant has not met the burden of proof to establish the need for the variances or that the variances are the minimum required or warranted.

MR. DEITCH MOVED IN THE CASE OF Z-11-02 TO DENY THE VARIANCE WITH RESPECT TO THE HEIGHT RESTRICTION. SECONDED BY MR. PAPA. MOTION UNANIMOUSLY CARRIED.

MR. DEITCH MOVED IN THE CASE OF Z-11-02 TO DENY THE PARKING VARIANCE. SECONDED BY MR. PAPA. MOTION UNANIMOUSLY CARRIED.

5. ADJOURNMENT

Chairman Achenbach adjourned the meeting at 7:50 p.m.

Respectfully submitted,

Secretary

/ses