

APPROVED

**SPRINGETTSBURY TOWNSHIP
ZONING HEARING BOARD
MARCH 30, 2017**

MEMBERS IN

ATTENDANCE: Dale Achenbach, Chairman
John Schmitt
Sande Cunningham
David Seiler

ALSO IN

ATTENDANCE: Jessica Fieldhouse, Director of Community Development
Raphael Caloia, Assistant Planner
Gavin Markey, Solicitor
Sue Sipe, Stenographer

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.

B. Reorganization of Officers

MOTION MADE BY MR. SCHMITT TO ACCEPT THE FOLLOWING SLATE OF OFFICERS FOR 2017:

**CHAIRMAN – DALE ACHENBACH
VICE CHAIRMAN – DAVID SEILER
SECRETARY – SANDE CUNNINGHAM**

MR. SEILER SECONDED. MOTION UNANIMOUSLY CARRIED.

2. ACTION ON THE MINUTES

A. DECEMBER 1, 2016

MOTION MADE BY MR. SEILER TO APPROVE THE MINUTES OF DECEMBER 1, 2016 AS PRESENTED. MS. CUNNINGHAM SECONDED. MOTION UNANIMOUSLY PASSED.

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

3. OLD BUSINESS – None

4. NEW BUSINESS

A. Case ZHB-17-02 Robert H. Elmiger

All witnesses were sworn in.

Robert Elmiger

Ms. Fieldhouse stated Mr. Elmiger is applying for a special exception to locate a bar at 3605 E. Market Street. Currently the property is Bailey's Home Brew and Wine Supplies and Mr. Elmiger indicated he is keeping Bailey's Home Brew and Wine Supplies and adding a brew pub. The establishment is located in the Commercial-Highway district. There are two special exception regulations for this use:

#1 - It must be located 300 ft. from the property line of the nearest single family home, school or church.

Ms. Fieldhouse confirmed that within a 500-ft. radius there are none of these.

#2 - It must comply with all licensing requirements and regulations of Pennsylvania. She indicated that Mr. Elmiger is working with his consultants and with the state to receive licenses sometime over the summer. She noted an additional zoning review confirms the property conforms to the zoning ordinance criteria for that district.

Mr. Elmiger stated the business is classified as a bar. He stated that 40-50% of their product sold will be food with wine and beer. They are a community oriented business. He noted they hold fund raisers twice a year for people in need. He noted they will hold high standards with an intolerance to over drinking. The hours will be from Sunday to Thursday 11 AM to 10 PM – Friday-Saturday 11 AM to 11 PM.

Mr. Elmiger clarified it will be a brew pub. They will serve their own products. He explained with the new state licensing requirements, as long as the business manufactures 50% of their own product they can bring in up to 50% of other Pennsylvania beers.

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

Kelly Sellers – Owner, Stony Brook Auto and Cycle Service Center 3607 East Market Street

Witness was sworn in.

Ms. Sellers indicated her business is next to the Bailey's Home Brew. She questioned what type of bar this would be, i.e., will there be music, will it generate a lot of noise? She was concerned about littering and trash, stating there have been beer bottles on their property. She was also concerned about lowering of property values and does the business have enough parking to accommodate customers. She noted they have access to the right of way behind their back parking lot and want to make sure that would not be blocked by any vehicles.

Mr. Elmiger responded they plan on holding a high standard. He noted they do not serve beer in a bottle. They had two events which were fund raisers. They raised \$12,000 for the family of Aiden Koller. The events they have are community oriented which helps to raise morale and the value of the area. They have greatly improved their property, adding \$100,000 in improvements already between material and labor, which should promote raising property values. He noted they will not block the right of way because it is the same area they have to drive through to get into their parking lot and will keep it clear for customers coming in and out.

Attorney Markey stated in his opinion the Staff analysis is very thorough and has covered the specific criteria for the special exception. He noted Staff has also addressed the general criteria for the granting of the special exception. It is a presumed permitted use, unless someone can demonstrate that they do not satisfy any of the criteria. There has been no opposition and they appear to satisfy all requirements so they are entitled to an approval.

MS. CUNNINGHAM MOVED IN THE CASE OF ZHB-17-02 FOR BAILEY'S HOME BREW

AND WINE SUPPLIES TO APPROVE THE SPECIAL EXCEPTION PER S325-163 FOR THE PROPERTY LOCATED AT 3605 EAST MARKET STREET. SECONDED BY MR. SCHMITT. MOTION UNANIMOUSLY PASSED.

B. Case ZHB-17-03 Robert Gordon 1931 Strawberry Fields

All witnesses were sworn in.

Attorney John Senft

Robert Gordon, Applicant

Roger Dixon, Professional Windmill Installer/Manufacturer/Designer

Ms. Fieldhouse stated Mr. Gordon was before the Zoning Hearing Board in December 2016 and received several variances to §325-211 for wind turbines. The Zoning Hearing Board granted a variance for Mr. Gordon to exceed the height of 50 ft. for his turbine to 140 ft. and for the turbine to be located at a distance of two times its height from the structure on the nearest adjoining property. The Ordinance requires five times the height. Mr. Gordon is re-applying since they did not have the distance required between the turbine and his own principal dwelling determined in December. Its required per the ordinance that the turbine be located 1.1 times the turbine height distance from the nearest occupied dwelling unit on the parcel and Mr. Gordon does not meet that requirement. He is proposing 100.77 feet when 1.1 times the height would be 154 ft.

Attorney Senft indicated they provided several letters from structural design experts, as well as other photographs. A position paper was submitted in December, relating to setback issues and rationalization for why 1.1 times the height of the tower would not be necessary, and with the combined features and topography does not present any kind of safety risk. Attorney Senft stated originally they thought they could place it farther up the hill which would avoid the 100 ft. as opposed to the 154 ft. However, in order to keep it at 154 ft. away from the adjoining property, the measurement came out that it had to be closer to Mr. Gordon's house.

Mr. Dixon stated he has been in the small wind turbine business for approximately 47 years – full-time for the last 12 years. He indicated Skylands Renewable Energy is his company, based in New Jersey. They service and install small wind turbines. Mr. Dixon referred to a letter submitted from the tower manufacturer – Ambor Structures. This was marked as Applicant's Exhibit A-1. Mr. Dixon pointed out the following points from the letter:

- They have engineered and manufactured hundreds of similar types of towers and have had zero tower failures in their experience.
- They manufacture towers for the cell phone industry and the power industry.
- They are a world-wide company.
- They provide full calculations to tower engineering professionals (TEP).
- The engineering firm looks at the manufacturer's calculations and verifies them.
- They provide stamped Pennsylvania engineered drawings. There is a liability associated if something happens.
- They are all engineered and built to international building codes so it's the standard in the industry.

Mr. Dixon referred to a letter from the Engineer, Ronald Weber (Applicant's Exhibit #2) as the engineering firm which states they are in strict accordance with applicable building codes, the International Building Code. He pointed out the numerous safety factors they use in their applied load resistance factors. He noted the key aspect to consider as noted in the letter is the typical design wind speeds used based on the geographic location of where Mr. Gordon's wind turbine is being placed. Typical wind speeds used are risk Category 2, which means a probable occurrence of a failure of this tower is once every 700 years. They have never had any failures. Mr. Dixon referred to a brochure which provides history on the Ambor Company, the different types of towers they manufacture, locations,

and the industries. He provided photographs (Applicant's Exhibit A-3), including a photo of the wind turbine at the Divinci Science Center in Allentown. This was installed approximately 45-50 ft. from the building. The main entrance to the building is approximately 40 ft. from the turbine. Mr. Dixon pointed out this is a 90-ft. tall tower, and there has been no issue with its placement.

Attorney Senft referred to Exhibit #5 as a briefing paper from the distributor Wayne Energy Association. Mr. Dixon noted he was familiar with it and was a founding member, having served on the board until several months ago. He noted the pertinent part to the paper is the reference to setbacks and they are justified. He indicated they can be harmful in some respects; they can limit tower height which would impair performance of the wind turbine. He cited several examples from the Jersey Shore area to substantiate the reasoning. Mr. Dixon did not believe there was any harm as long as they are built correctly. He reiterated the tower will be built in accordance with engineering requirements and would be inspected as per the plans by the Township's building permit.

He further noted the winds that come up to Mr. Robert's property are to the front of his house. The wind turbine is being placed behind his house so in the event of extreme winds of hurricane force that could potentially blow it over, it would blow over opposite from his house. Mr. Dixon stated based on his knowledge of the turbines and the industry, he did not see any safety risks to the tower being placed 100 ft. from his house.

The Board questioned if the case was considered as a new application or a supplemental application that already acknowledges the variances granted in the first one. Ms. Fieldhouse noted this has been logged as a separate application, with a separate application number. She stated the variances previously granted were: S325-211 – to allow a wind turbine at a height of 140 ft. as opposed to the 50 ft. that was the maximum height per the zoning ordinance. The second variance was to allow S325-211 the zoning ordinance requires that wind turbine be located 5 times its height distance to the nearest occupied structure on an adjoining property. She stated what the applicant was able to provide was 2 times the height distance to the nearest occupied structure on an adjoining property, with a letter from the adjoining property owner stating they were in support of the variance being granted.

Att Markey confirmed the Board does not need to revisit the entire project since it is not affecting anyone's land in a different way than the original application was processed. Attorney Markey recommended proposed conditions for the application which ties it to the original application.

#1 - The applicant must maintain compliance with all the S325-211 criteria and will be required to process the wind turbine through those criteria in order to get a building permit.

#2 - The result of the two approvals will bind each other to ensure there will only be one turbine on the property.

Mr. Dixon stated as a confirmation of one turbine, that Net Interconnection regulations from the local utility stipulate a residential applicant cannot install more than 50 KW of any kind of renewable energy and that Mr. Gordon already has 33 KW of solar energy.

In response to the Board's question about the liability for the Zoning Hearing Board, Attorney Markey affirmed the Zoning Hearing Board has immunity in making these decisions. The liability will be on the property owner, the engineering firm or whoever may be involved.

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. SEILER MOVED IN THE CASE OF ZHB-17-03 ROBERT GORDON TO APPROVE THE VARIANCE TO S325-222 G. (1) TO ALLOW THE CONSTRUCTION OF WIND TURBINE AT LESS THAN 1.1 TIMES THE HEIGHT MINIMUM REQUIREMENT TO THE NEAREST OCCUPIED BUILDING ON THE SAME LOT SUBJECT TO THE FOLLOWING CONDITIONS:

#1 - THE APPLICANT MUST MAINTAIN COMPLIANCE WITH ALL THE S325-211 CRITERIA AND WILL BE REQUIRED TO PROCESS THE WIND TURBINE THROUGH THOSE CRITERIA IN ORDER TO GET A BUILDING PERMIT.

#2 - THE RESULT OF THE TWO APPROVALS WILL BIND EACH OTHER TO ENSURE THERE WILL ONLY BE ONE TURBINE ON THE PROPERTY. SECONDED BY SCHMITT. MOTION UNANIMOUSLY PASSED.

C. Case ZHB-17-04 Brandon's Beverage Stop, LLC

All witnesses were sworn in.

Attorney Stacey MacNeal

Brandon Kline, Owner

Terry Burkhart, Superior Signs

Ms. Fieldhouse indicated the property is located at 2795 Mt. Rose Avenue and has been a beer distributor for many years. Brandon's Beverages was recently purchased and renamed. An existing pole sign on the property was taken down by the owner in order to accommodate the PennDOT road widening of Mt. Rose Avenue. The sign was never reinstalled. The applicant is requesting a variance to S325-107A to allow a non-monument style freestanding sign in the mixed use zoning district.

Attorney MacNeal provided packets marked as Exhibits A1 – A7. Mr. Kline stated he is the current owner of Brandon's Beverage stop which is rented from 2795 Mt. Rose LLC. The property was acquired October 25, 2016. Photos were provided of the former owner's sign which was removed, which was 17 feet. Mr. Kline stated because the business is set back from the road and is not immediately seen by the public it is necessary to provide a sign.

Applicant's Exhibit 1 is a plan that shows the property. Mr. Kline described the property showing the location of the previous sign. He noted there is a retention pond to the right of the sign. The parking lot is the majority of the front of the building, which is located set back from the roadway. Mr. Kline noted there is no green space at the front of his property but there is one strip on the side. An aerial photo of the property showed the impervious cover which Mr. Kline indicated as the parking access drive and the stormwater basin.

Mr. Kline indicated he contracted with Superior Signs to install an electronic pole sign on his property to replace what was previously there before he acquired the property.

Mr. Kline indicated that aerial photo Exhibit A-3 shows the surrounding neighborhood including Heritage Hills across the street. He noted there are multiple business on that road. There are a few residential homes on the left and right and behind their facility, however, it is mostly commercial activity in that immediate area.

Mr. Kline indicated that Exhibit A-4 –shows the neighboring properties, with the top left as one house along the road. The top right across the street is Essis & Sons Carpet. There is an empty lot that belongs to the retirement community to the left side. The bottom photo is the front of Heritage Hills with their sign.

Mr. Kline indicated that multiple improvements were made to the landscaping, as well as general clean up to side areas of the building inside and out. He also noted the existing retention pond was recently re-stoned. It was noted it was used for stormwater management with the Mt. Rose widening.

Mr. Kline stated the sign as shown in A-1 shows the location of the proposed sign. The height of the proposed sign is 17 ft. which is approximately the same height as the original sign.

Mr. Burkhart stated he is employed by Supervisor signs for 48 years. They specialize in commercial, electric and corporate signing. Mr. Burkhart confirmed he was familiar with the property. He noted he has been working with the owners to design a replacement sign. He noted the existing building is approximately 100 ft. from the road and is heavily travelled. He stated with the width of the road as it currently exists, the visibility of this property is more challenging, explaining where the building sits back from the road, it is difficult to see and potentially creates a traffic concern if there is no sign to identify the property.

He indicated the proposed sign location will allow for clear sight for entry and exit from the facility, and that is the reason to keep it the same height and the setback to have a clear sight triangle.

He noted there are limited locations on the property for a free-standing sign. A monument sign would be difficult to do at this location because where it must be placed. The swale drops off and it would not be a substantial foundation to put a low monument sign there.

Mr. Burkhart noted there is also a concern that a monument sign in that location would block visibility for vehicles trying to exit the property. The property is also restricted in the location of the sign because of the necessary parking on site, and placing it anywhere else would be taking up parking spaces. There is also sidewalk on the property. It was his opinion that the proposed location is the only feasible location on the site for the free-standing sign.

Mr. Burkhart stated he created a document labeled as Page A-6, noting this is the basic print they provide with the specifications on the sign and the electronic for permitted signs. It also shows the electrical of the sign and the footer foundation which is engineered for 100 mph wind load.

Mr. Burkhart indicated the proposed square footage of the sign is 48.7 sq. ft. total sign, bifurcated into two separate displays. The bottom display is an electronic digital display amber that would be controlled with a wireless controller from the building to the sign. It can be programmed for any time of the day.

Ms. Fieldhouse noted the permitting department is working with Mr. Kline to review the permits in conjunction with the sign and they have advised the applicant that animated signs are not permitted.

Mr. Kline stated he understood the Township regulations as to how frequently the message can change and he intends for it to be a static display - lighted and programmable but static.

Mr. Burkhart stated the digital display can be controlled and the brightness can be controlled by software, hardware or manual. The digital display is built in photocell so that during the day increases it to overcome the sun and at night it dims it down about 10%. This sign puts out 6000 bits.

Ms. MacNeal indicated that the Township has limits on total signage on the property that are 20% of the building frontage. Exhibit A-7 shows is the front of the building taken at the time the application was filed. The total signage on this property can be 144 sq. ft. Mr. Burkhart confirmed he measured all of the existing attached signage which is approximately 128 sq. ft. Some of the temporary signage will be removed if the application is approved. There is a temporary banner on the building which will be removed, as well as to the left and right of the door and across the top. By his calculations that will be sufficient to reduce the total sq. footage of signage on the property below 144 sq. ft.

It was noted there are lighted signs in the windows that display beer logos provided by beer vendors. It was noted they are part of the allowable signage and they are calculated towards that square footage of signage. Mr. Kline confirmed that replacement signs would be comparable in size.

Ms. Fieldhouse confirmed the total signage adds up to what is permitted. From the zoning ordinance for business identification signs, this lot has a maximum allowable amount of square footage which they may utilize however they choose. Window signs are included.

Mr. Burkhart confirmed, based on his experience in the industry, that this property has some unique physical circumstances and situations that make the variance for the pole sign as opposed to a monument sign appropriate. He believed that having a sign by the road is necessary for purposes of business identification as well as traffic safety.

Mr. Burkhart confirmed that having a pole sign in that location as opposed to a monument sign will not have adverse impact on the surrounding neighborhood.

This proposed sign will be similar in size and height to the previous sign. The overall signage for the property will be under the maximum allowable sq. footage.

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

Charles Stuhre – 3681 Trout Run Road

Witness was sworn in.

Mr. Stuhre stated he is a member of the Planning Commission. He indicated when the Township wrote the Comprehensive Plan and the most recent zoning ordinance the desire was to over time diminish or eliminate pole signs and use monument signs. He expressed concern that whatever is built be built to the most minimum standard to meet the sight triangle.

Mr. Burkhart confirmed that the bottom of the facing of this sign is the lowest it can be while still maintaining clear sight for this property.

Attorney MacNeal pointed out the sign for Heritage Hills across the street is a monument sign, Discussion was held regarding the definition of a monument vs. a pole sign. It was noted maximum height for monument signs cannot be more than 10 ft. in height, or six feet wide.

Attorney Markey indicated this is a reasonable request and a justified variance. He was of the opinion a monument sign would be a detriment to the public safety and visibility at that location. In the event the Board is inclined to approve the variance he recommended the following conditions:

#1 - The approval is subject to the criteria and dimension shown on Applicant's A-6 which provides the specifics of the sign they are proposing.

#2 – The transcript testimony shall be incorporated and any affirmations of fact shall be binding on the applicant which will cover the representations regarding the applicant's limitations to certain sign amounts. Signs may be removed and replaced but shall not exceed what is permitted under the zoning ordinance.

MR. SEILER MOVED IN THE CASE OF ZHB-17-04 BRANDON'S BEVERAGE STOP, LLC TO APPROVE THE VARIANCE TO S325-107.A FOR A NON-MONUMENT STYLE, FREESTANDING SIGN SUBJECT TO THE FOLLOWING CONDITIONS:

#1 - THE APPROVAL IS SUBJECT TO THE CRITERIA AND DIMENSION SHOWN ON APPLICANT'S A-6 WHICH PROVIDES THE SPECIFICS OF THE SIGN PROPOSED;

#2 – THE TRANSCRIPT TESTIMONY SHALL BE INCORPORATED AND ANY AFFIRMATIONS OF FACT SHALL BE BINDING ON THE APPLICANT WHICH WILL COVER THE REPRESENTATIONS REGARDING THE APPLICANT'S LIMITATIONS TO

CERTAIN SIGN AMOUNTS. SIGNS MAY BE REMOVED AND REPLACED BUT SHALL NOT EXCEED WHAT IS PERMITTED UNDER THE ZONING ORDINANCE. SECONDED BY MR. SCHMITT. MOTION UNANIMOUSLY PASSED.

5. ADJOURNMENT

CHAIRMAN ACHENBACH ADJOURNED THE MEETING AT 7:25 P.M.

Respectfully submitted,

Secretary

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