

**SPRINGETTSBURY TOWNSHIP
ZONING HEARING BOARD
DECEMBER 1, 2016**

MEMBERS IN

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

ALSO IN

ATTENDANCE: Jessica Fieldhouse, Director of Community Development
Gavin Markey, Solicitor
Sue Sipe, Stenographer

NOT PRESENT: James Deitch

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. NOVEMBER 3, 2016

MOTION MADE BY MS. CUNNINGHAM TO APPROVE THE MINUTES OF NOVEMBER 3, 2016 AS PRESENTED. MR. SCHMITT SECONDED. MOTION UNANIMOUSLY PASSED.

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

3. NEW BUSINESS

A. Case Z-16-13 Quattro Development, LLC

All witnesses were sworn in.

Attorney Stacey MacNeal
Joshua George, Snyder, Secary & Assocs.

Ms. Fieldhouse stated the plan was submitted to the Township in September for the October Zoning Hearing Board agenda. There were delays due to site layout changes. The property is located at 3315 and 3401 Concord Road previously the location of Mariners Choice and other outbuildings that housed other businesses including Marketing Works. The project is located at the intersection of Concord Road and Mt. Zion Road. The proposal is a subdivision which will consolidate lots and create Parcel 1 and Parcel 2. Parcel 1 is approximately 2.220 acres. Parcel 2 is approximately 4.409 acres. Parcel 2 will be the future site of a 35,100 sq. ft. chain grocery store. Parcel 1 will be the future site of a 5,000 sq. ft.

convenience gas station with 4 pumps. The site consists of a total of approximately 6.71 acres with a total of approximately 7.12 acres of disturbance.

Ms. Fieldhouse noted the site is what is traditionally referred to as a Brownfield site. Brownfield is a term used in urban planning to describe land previously used for industrial purposes or some commercial uses. It is not unusual for Brownfield developments to require some type of relief from municipal ordinances due to the size and shape of the lot and the impact from its previous uses. The lot in question for this case, is uniquely shaped and thusly has roughly three sides. Two of those sides are bounded by public right-of-way and the third is a shared property line with the York County Prison's Work Release facility.

There are 5 variances being requested:

- S.325-92.D.2 – Landscape Strips along interior access drives
- S.325-116.O – Width of landscaped terminal islands
- S.325-120.B – Dumpsters within Front Yards
- S.325-120.C - Dumpsters within 10' of property lines
- S.325-121 - Fence Exceeding 4' in height

Ms. Fieldhouse indicated the dumpster variances can be attributed to the multiple front yards on this site. She noted there are landscaped terminal islands being provided. There are pinch points where the width of the island is 10 ft at its maximum which are uniquely shaped in order to provide the amount of parking they are requesting. Staff's perception is they are appropriately sized to separate the parking and to meet the safety criteria but they are not a uniform 10 ft. in width.

In regards to the variance for landscape strips along interior access drives, Ms. Fieldhouse determined what the zoning ordinance is looking for is a curbed and landscaped access drive that would connect this entrance with the alternate entrance. Staff was also in favor of this particular variance because the applicant is trying to delineate with solid access points to a determined access drive. She noted Staff is concerned that the site is too small for that and what actually would be created is a speedway connecting Concord with Mt. Zion allowing vehicles to bypass the intersection.

Ms. Fieldhouse noted the applicant is requesting a variance for an 8-ft. fence along the edge of the property which is intended as a buffer fence to screen this site from the adjoining York County Prison property.

Ms. Fieldhouse noted all the variances are dimensional in nature. In her Staff report she recommended approval of the landscape strip variance, the landscaped terminal island variance, dumpsters within front yard variance and the fence exceeding 4 ft. in height. She recommended discussion regarding the approval of the dumpsters within the 10-ft. property line, citing the complete redevelopment of the site as to the design parameters that are keeping the developer from developing within strict conformance of the zoning ordinance. Also, to determine the hardships that are going to require the dumpster to be within 10 ft. of the property line. She pointed out the topography of the site with the significant change in elevation meaning Concord Road is higher than the location of the site and that topography could block the view of the dumpster.

Attorney MacNeal confirmed with Mr. George in regards to testimony regarding the interior landscaping along the interior access drive, that due to the shape and size of the site the variance requested is because they do not want to have a thoroughfare from one side to the other that would provide a cut off of the intersection. Mr. George further indicated they designed the access drive to provide access to both Concord Road and Mt. Zion Road because of the configurations of the road. There are very limited locations in which those access drives can be physically connected to the existing streets and it was done to specifically meet traffic requirements. He also noted as part of the landscaping they agree with the zoning officer's review that because of the layout of the site and the unique shape that it is not possible to

provide any specific landscaping in conformance with the ordinance.

Attorney MacNeal indicated one of the site constraints is related to the access drive on Concord Road and the fact there is only a very limited location for the access onto Concord Road. Mr. George confirmed that was true for both Concord Road and Mt. Zion Road, noting that it is a combination of both state and local roads. Mt. Zion is a PennDOT roadway with the proximity to both the intersection with Concord Road and Route 30 limits where the access drive can be constructed. The new access won't be signalized. The access on to Mt. Zion Road is proposed to be a right-in, right-out only access.

Attorney MacNeal indicated the access onto Concord is not capable of being signalized in that location due to the proximity to the existing signal at Concord and Mt. Zion. She noted they have the same constraints there which is an access drive from the York County work release site which they are trying to provide separation between their access drive and this proposed access drive as far as possible because of queuing and stacking there on that driveway. She noted there have been multiple staff meetings to talk about the access drives and determined they are in agreement these are the only two locations for access to this property.

Mr. George further noted they submitted a traffic study to both the Township and to PennDOT nine months ago. They are on their third round of revisions with PennDOT to finalize this.

Chairman Achenbach referred to a memo submitted by Mr. George which was a supplement to the application summarizing the case being made this evening. He conferred with Attorney Markey that the memo can serve as an outline to follow. Attorney Markey confirmed it was sufficient with the zoning officer's presentation as well as the applicant's presentation.

Attorney MacNeal asked Mr. George to further explain the dumpster location for Lot #1. Mr. George indicated when they prepared the site layout plan for this project they did an evaluation of Lot #1 which is the convenience store lot, to determine the most appropriate place for the dumpster given the fact that there is a triple frontage situation and dumpsters are not permitted in the front yard. They saw how the site sits down below Concord Road which provided a visual screen from the dumpster because of the elevation difference from Concord Road down to the site. They looked at access for the trash vehicles that would pick up the trash at the dumpsters to make sure it was convenient and accessible. They also evaluated the location of the dumpster relative to the orientation of the building. The proposed convenience store would face onto Mt. Zion Road. The location chosen is to the rear of the store. Important considerations include a combination of those different factors; the elevation difference between site and Concord Road, the location of the dumpster for pickup convenience and ease to minimize conflicts with traffic and then also relative to the store. As they went through the traffic work one of the things that became apparent was determining if they were going to need to widen Concord Road as part of the project. What is proposed at this point in time is the extension of the existing right hand turn lane. That lane will be extended significantly along the entire frontage of this property, necessitating dedicating right-of-way along Concord Road to allow the roadway to be widened and constructed. That means the existing property line is now shifted inward to the site to allow for the road widening to happen. While originally there was approximately 10 ft. from the existing property line, with the addition of the right-of-way for the roadway widening, they no longer have the 10 ft.

A question was asked regarding the development of the small segment of land to the south of Lot #1 that is across Concord Road. Mr. George indicated it is not part of this project and would remain as an undeveloped portion of the property. It is physically separated from the property by Concord Road and has been that way for many years. It is steep and wooded and not developable from a practical standpoint and so there is no intention as part of this project to do anything except leave it where it is.

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

Charles Stuhre - 3680 Trout Run Road

Mr. Stuhre commented on the small triangle to the south of Concord Road which is a heavily pedestrian travelled area for people from the prison either workers or visitors. He noted there is sidewalk to the end of the prison property, but no sidewalk beyond that. From a safety standpoint he was of the opinion this project provides an opportunity to install sidewalk in that area.

Ms. Fieldhouse indicated this recommendation would be considered as the case goes before the Planning Commission during the land development phase.

Chairman Achenbach asked the applicant if he understood the situation and the comments anticipating what may arise in the future going forward.

Attorney MacNeal indicated they do understand the concerns and that it is an ongoing discussion item.

MOTION MADE BY MR. SEILER IN THE CASE OF Z-16-13 TO RECOMMEND APPROVAL TO THE BOARD OF SUPERVISORS FOR THE FOLLOWING VARIANCES:

- **S.325-92.D.2 – LANDSCAPE STRIPS ALONG INTERIOR ACCESS DRIVES. STAFF BELIEVES THAT THE LOT IS NOT OF A SUFFICIENT SIZE TO ALLOW FOR FULLY CURBED INTERNAL ACCESS DRIVES AND BELIEVES THAT A FULLY CURBED ACCESS DRIVE ON THIS SITE WOULD RESULT IN CUTTING OFF ACCESS TO PARKING, THE PROPOSED USES THEMSELVES AND WOULD IN GENERAL IMPEDE INTERNAL TRAFFIC FLOW.**
- **S. 325-116.O – WIDTH OF LANDSCAPED TERMINAL ISLANDS. STAFF BELIEVES THAT THE APPLICANT IS MEETING THE OVERALL INTENT OF THE ORDINANCE BY PROVIDING ISLANDS THAT HAVE A MAXIMUM WIDTH OF 10’ AND WILL BOTH ACCOMPLISH THEIR PURPOSE FROM A SAFETY AND TRAFFIC FLOW STANDPOINT, IN ADDITION, TO PROVIDING AN AREA LARGE ENOUGH FOR LANDSCAPING TO THRIVE.**
- **S.325-120.B – DUMPSTERS WITHIN THE FRONT YARD. STAFF BELIEVES THAT A LEGITIMATE HARDSHIP EXISTS WITH THE DUAL FRONTAGE LOTS. IN ADDITION, STAFF BELIEVES THAT EXISTING SITE TOPOGRAPHY MAY HELP TO SCREEN THE DUMPSTER ENCLOSURE FROM VIEW.**
- **S.325-121 – FENCE EXCEEDING 4’ IN HEIGHT. STAFF BELIEVES THIS TO BE JUSTIFIABLE DIMENSIONAL VARIANCE IN ORDER TO SCREEN THE PROPOSED DEVELOPMENT FROM ADJOINING LAND USES.**
- **S.325-120.C – DUMPSTERS WITHIN 10’ OF A SIDE OR REAR PROPERTY LINE. STAFF DID STATE ABOVE THAT THERE ARE NO STRONG RESERVATIONS WITH REGARDS TO ANY OF THE VARIANCES REQUESTED. HOWEVER, THIS SITE IS A COMPLETE REDEVELOPMENT AND DESIGN PARAMETERS ARE FLEXIBLE WITH REGARDS TO CERTAIN ASPECTS AND STAFF QUESTIONS WHETHER THIS PARTICULAR VARIANCE IS ABSOLUTELY NECESSARY AND REFLECTS THE MINIMUM VARIANCE NECESSARY TO REDEVELOP THE SITE. THAT HAVING BEEN SAID, IT IS A DIMENSIONAL VARIANCE AND SITE TOPOGRAPHY LIMITS THE IMPACT OF HAVING THE DUMPSTER ENCLOSURE SO CLOSE TO THE PROPERTY LINE.**

SECONDED BY MS. CUNNINGHAM. MOTION UNANIMOUSLY PASSED.

B. Case Z-16-14 Robert Gordon

All witnesses were sworn in.

Robert Gordon, Property Owner

Attorney John Senft

Ms. Fieldhouse indicated this case was submitted to the Township and presented to the Zoning Hearing Board at their October meeting. Upon hearing dissenting opinion from an adjoining neighbor, the Board decided to table the case to allow the applicant to reach out to other property owners to disseminate the information. It was noted a continuance letter was submitted by the applicant to carry the proceeding over to the December meeting. The applicant chose to delay until December so they could have representation from their attorney and consultants to assist in the discussion.

The variances are for 1931 Strawberry Field. The applicant is proposing to construction 140 ft. wind turbine she showed the location on the map. The variances requested are:

1. S.325-211. B. 1. A. To allow the construction, operation, and maintenance of a wind turbine with a height of 140'
2. S.325-211. G. To construct the turbine less than the required minimum distance to the nearest, occupied building located on a non-participating property.

Ms. Fieldhouse stated the Ordinance restricts the height of a wind turbine to 50 ft. The reason the applicant is requesting 140 ft. is due to the overall topography of the site and the height of the trees. In order for the wind turbine to capture wind, it must be elevated above the trees and surrounding area. The wind turbine is a residential turbine used to source electricity for the home, which makes most sense for the construction of the turbine to be close to the home.

The other variance is because the Ordinance stipulates that the wind turbine must be 5 times its height in distance away from the nearest occupied structure on an adjoining property. It is 2 times its height distance away. The Ordinance also states the wind turbine must be 1.1 times its height distance away from adjoining property lines and from any structures located on the property and they are meeting that requirement. The applicant submitted additional information with regards to a mailer that was sent out to adjoining neighbors. The applicant also submitted a list of signatures from individuals who are in favor of the construction of the wind turbine (Applicant's Exhibit A-1). It was noted the property owner of the occupied residence that the turbine is closest to, which is two times its building height, submitted a letter of support for the construction of the wind turbine.

Attorney Senft confirmed the letter from Mrs. Jay was submitted to the record and provided an exhibit showing the signatures of 16 neighbors who are in support of the project. Attorney Senft confirmed approximately 40 mailers were sent to adjoining property owners and Mr. Gordon and Mr. Lloyd personally visited those 40 neighbors to complete due diligence to satisfy the Board's concerns.

Mr. Roger Dixon, Skylands Renewable Energy, Hampton, New Jersey.

Mr. Dixon responded to a question from the Board as to how often the wind turbine spins, noting it depends on the wind resource and cut in speed which is variable. He indicated the wind mill will turn but does not necessarily produce power at a lower RPM or lower wind speed. As the wind speed increases it cuts in and begins to make power. Typical cut in speed is 3.5 meters per second for most wind turbines this size. He noted there is a lot of misinformation about birds hitting wind turbines, citing 45 years of experience.

Philip Coomb, Grahamsville, NY, Individual Land Owner/Turbine Owner

Mr. Coomb noted no negative experiences indicating most turbines will turn at a certain speed. His is 60 RPM, no matter what the wind speed, which is navigable for birds who may try to go through it. He indicated he has never found birds on the ground next to the machine. He also noted turbines require maintenance.

Thomas Elf, Neighbor of Mr. Gordon

Mr. Elf stated he was in favor of the wind turbine for environmental reasons.

Mr. Stuhre

Mr. Stuhre commented that when the Ordinance for wind turbines was developed the Township had outside engineering firms assisting with the development of the Ordinance. He was concerned about approving the variances and circumventing those intended limits and restrictions, as well as how the wind turbine could affect a future owner of the property. He suggested imposing a condition that should the property be sold it has to be brought into compliance with the Ordinance.

Ms. Fieldhouse asked the consultant Mr. Dixon to address the setbacks and what is necessary since when the Ordinance was designed the objective was not known and the requirements could have been more suited to a different type of wind turbine, commercial vs. residential, etc.

Mr. Dixon stated in his opinion 5 times the tower system height is an extreme setback. He noted the intent is to evaluate what happens if the tower falls over, is it falling over on another neighbor's property or on a dwelling. If a tower should fall it will not fall straight out, rather it would fall slightly to the side and because of the head weight from the turbine on top it would crumble as it went down. He indicated there is no realistic criteria to determine times the height. In that regard 5 times might have been something put in place not understanding the dynamics and they wanted to be safe. He noted as a founding member of the Distributed Wind Energy Association he helped write the model zoning ordinance for which the requirement is 1 times the tower height.

Attorney Markey provided several points indicating the brochure prepared by the applicant and his counsel includes a photograph that shows the visual impact of the windmill as it relates to the surrounding area which appears to be minimal from a visual perspective. Attorney Markey indicated he had no objection to the approval of the variances but recommended there be a condition placed on the approval for continued compliance with §325.211 which addresses the construction and operation of wind turbines, with the exception as modified by the variances as approved. The reason for the condition is in keeping with what happens in the event of a new property owner at a future time, and would continue compliance with all remaining sections that cover matters such as decommissioning if the windmill falls into disrepair or is not properly kept up by a future property owner. He noted there are time constraints imposed in that section which are enforceable if the wind turbine is not brought back up to operation or if allowed in disrepair. If the new property owner would not want it then they would be required to decommission and remove it, with re-grading the site to be put back to its original state. Additional requirements would include climb prevention locks and other apparatus to be in compliance to the satisfaction of the zoning officer. Additionally, there is also a provision in subsection L to address insurance coverage to be maintained by the property owner.

Ms. Fieldhouse also noted as part of the building permit process the applicant will need to provide documentation that shows how they are complying with all the sections of 325.211 except for what would be varied this evening. Paper documentation would have to be provided of all of the safety features and the insurance before they would get a permit to construct the turbine.

Attorney Markey clarified this application is for a variance for 1 turbine at this location according to the standards and evidence introduced. Any other turbine to be considered would come back to the Zoning Hearing Board.

MS. CUNNINGHAM MOVED IN THE CASE OF Z 16-14 TO APPROVE THE FOLLOWING VARIANCES:

- 1. S.325-211. B. 1. A. TO ALLOW THE CONSTRUCTION, OPERATION, AND MAINTENANCE OF A WIND TURBINE WITH A HEIGHT OF 140'**
- 2. S.325-211. G. TO CONSTRUCT THE TURBINE LESS THAN THE REQUIRED MINIMUM DISTANCE TO THE NEAREST, OCCUPIED BUILDING LOCATED ON A NON-PARTICIPATING PROPERTY.**

CONDITIONED UPON CONTINUED COMPLIANCE WITH S. 325.211 EXCEPT AS MODIFIED BY THE VARIANCES AS APPROVED.

SECONDED BY MR. SCHMITT. MOTION UNANIMOUSLY PASSED.

4. OLD BUSINESS

It was noted that an alternate member is being considered for the Zoning Hearing Board. It was also noted that Mr. Deitch has resigned from his position on the Board. Ms. Fieldhouse indicated that the Board of Supervisors has approved advertising for a new member.

5. ADJOURNMENT

CHAIRMAN ACHENBACH ADJOURNED THE MEETING AT 7:00 P.M.

Respectfully submitted,

Secretary

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