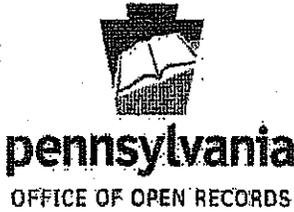


RTK 94



**Springettsbury Township**

1501 Mt. Zion Road

York, PA 17402

(717) 757-3521 (Phone)

(717) 505-0455 (Fax)

www.springettsbury.com

**STANDARD RIGHT-TO-KNOW REQUEST FORM**

DATE REQUESTED: 12/2/11

REQUEST SUBMITTED BY: E-MAIL U.S. MAIL FAX IN-PERSON

NAME OF REQUESTOR: Stacey R. MacNeal

STREET ADDRESS: 345 East Market Street

CITY/STATE/COUNTY (Required): York, PA 17403 (York)

TELEPHONE (Optional): 717-854-5124

**RECORDS REQUESTED:**

*\*Provide as much specific detail as possible so the agency can identify the information.*

Copies of any and all zoning decisions related to dimensional or use issues for the dental office located at UPI No. 46000210044 and any and all zoning decisions related to the proposed Yorkshire Elementary School located on Mills Street.

DO YOU WANT COPIES? YES or NO

DO YOU WANT TO INSPECT THE RECORDS? YES or NO

DO YOU WANT CERTIFIED COPIES OF RECORDS? YES or NO

RIGHT TO KNOW OFFICER: JOHN J. HOLMAN, TOWNSHIP MANAGER/SECRETARY  
john.holman@springettsbury.com

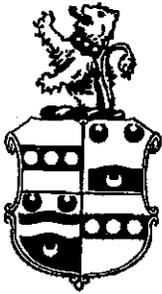
DATE RECEIVED BY THE AGENCY:

AGENCY FIVE (5)-DAY RESPONSE DUE: 12/09/2011  
30 days 01/05/2012

*\*\*Public bodies may fill anonymous verbal or written requests. If the requestor wishes to pursue the relief and remedies provided for in this Act, the request must be in writing. (Section 702.) Written requests need not include an explanation why information is sought or the intended use of the information unless otherwise required by law. (Section 703.)*

Questions: please contact the Office of Open Records at (717) 346-9903 or openrecords@state.pa.us

RTK-94



COAT OF ARMS OF SPRINGETT PENN  
1701-1731

# SPRINGETTSBURY TOWNSHIP

1501 Mt. Zion Road  
York, Pennsylvania 17402  
717-757-3521 Fax: 717-757-7856  
www.springettsbury.com  
email: Info@springettsbury.com

Police: 717-757-3525 Fax: 717-840-1908  
Police and Fire Emergencies - Dial 911  
Recreation Office: 717-505-0406

Wastewater Treatment Facility  
3501 North Sherman Street  
717-757-3521 Fax: 717-840-0680

## BOARD OF SUPERVISORS

William H. Schenck, III  
Chairman

Donald P. Blehop

Michael R. Bowman

George M. Dvoryak  
Vice Chairman

Julie A. Landis  
Assistant Secretary/Treasurer

## TOWNSHIP MANAGER

John J. Holman  
Secretary

December 6, 2011

Stacey R. MacNeal, Esquire  
345 East Market Street  
York, PA 17403

Re: **RIGHT-TO-KNOW REQUEST**

Dear Ms. MacNeal,

Thank you for writing to Springettsbury Township with your request for information in regards to "Copies of any and all zoning decisions related to dimensional or use issues for the dental office located at UPI No. 46000210044 and any and all zoning decisions related to the proposed Yorkshire Elementary School located on Mills Street."

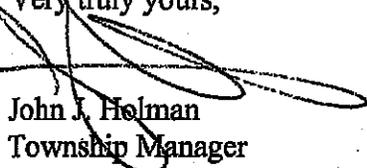
I reviewed the request and an extension of time to respond is required due to the reasons set forth below. The Township anticipates responding to your request no later than January 6, 2012.

- o The extent or nature of the request precludes a response within the required time period.
- o The request requires the retrieval of historic records.

The applicable fees associated with your request are unknown at this time. You will be advised of the estimated fees after completion of review of your request.

If you have any questions please do not hesitate to contact me.

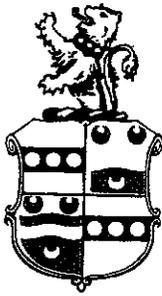
Very truly yours,

  
John J. Holman  
Township Manager

/jjh

cc: Charles Rausch, Township Solicitor  
James Baugh, Director of Community Development

File: Right-to-Know



COAT OF ARMS OF SPRINGETT PENN  
1701-1731

## SPRINGETTSBURY TOWNSHIP

1501 Mt. Zion Road  
York, Pennsylvania 17402  
717-757-3521 Fax: 717-757-7856  
www.springettsbury.com  
email: info@springettsbury.com

Police: 717-757-3525 Fax: 717-840-1908  
Police and Fire Emergencies - Dial 911  
Recreation Office: 717-505-0406

Wastewater Treatment Facility  
3501 North Sherman Street  
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### BOARD OF SUPERVISORS

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George M. Dvoryak  
Vice Chairman

Julie A. Landis  
Assistant Secretary/Treasurer

### TOWNSHIP MANAGER

John J. Holman  
Secretary

December 20, 2011

Stacey R. MacNeal, Esquire  
345 East Market Street  
York, PA 17403

Re: **RIGHT-TO-KNOW REQUEST**

Dear Ms. MacNeal,

Thank you for writing to Springettsbury Township with your request for information in regards to "Copies of any and all zoning decisions related to dimensional or use issues for the dental office located at UPI No. 46000210044 and any and all zoning decisions related to the proposed Yorkshire Elementary School located on Mills Street."

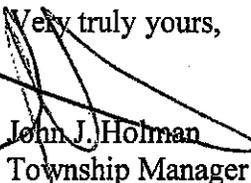
Your request is approved. The cost of the copy of the documents is \$3.00 if picked up from the municipal office. Should you wish to have the information mailed, the additional cost is \$.84 for a total cost of \$3.84.

The documents can be picked up or mailed upon receipt of payment to Springettsbury Township. You may contact Ms. Dori Bowders, at 717-757-3521, to schedule a time to pick up the documents.

Please be advised that this correspondence will serve to close this record with our office as permitted by law.

If you have any questions please do not hesitate to contact me.

Very truly yours,

  
John J. Holman  
Township Manager

/jjh

cc: Charles Rausch, Township Solicitor  
James Baugh, Director of Community Development

File: Right-to-Know

RTK-94

July 17, 2008

Dr. Kathryn Orban  
York Suburban School District  
1800 Hollywood Drive  
York, PA 17403

RE: Zoning Case Z-08-05  
Yorkshire Elementary Parking Variance  
Springettsbury Township, York County, PA

Dear Dr. Orban:

At their public meeting on May 1, 2008, the Springettsbury Township Zoning Hearing Board moved on your Variance requests:

1. Allow a reduction in the number of required parking spaces from 159 to 85.

**MR. DEITCH MOVED IN THE CASE OF Z-08-05 TO GRANT THE VARIANCE FROM ARTICLE XXV, OFF-STREET PARKING, LOADING AND UNLOADING, §325-114, PARKING FACILITIES REQUIRED BY LAND USE, TO ALLOW A REDUCTION IN THE NUMBER IF REQUIRED PARKING SPACES FROM 159 TO 85, WITH THE STIPULATION THAT THE DISTRICT WOULD ASSURE THE RESIDENTS ALONG MAYWOOD ROAD THAT PARKING WOULD NOT INTERFERE WITH EGRESS AND INGRESS ON THEIR PROPERTY.**

**SECONDED BY MR. SCHMITT. MOTION UNANIMOUSLY CARRIED.**

Springettsbury Township Zoning Ordinance requires the necessary permits to be obtained and the authorized work to be started, within six (6) months after the date when the approval was granted, unless an extension is requested and approved.

If you have questions or comments or if we may be of assistance, please contact us at 717-757-3521.

Very truly yours,

Harish B. Rao, P.E.  
Springettsbury Township Zoning Officer

September 5, 2008

York Suburban School District  
1800 Hollywood Drive  
York, PA 17403

RE: Zoning Case Z-08-14  
Yorkshire Elementary Parking and Dumpster Variances  
Springettsbury Township, York County, PA

Dear Applicant:

At their public meeting on August 7, 2008, the Springettsbury Township Zoning Hearing Board moved on your Variance requests:

1. Allow parking in the front yard.
2. Allow dumpsters to be located in the front yard.

**MR. DEITCH MOVED IN THE CASE OF Z-08-14 YORK SUBURBAN SCHOOL DISTRICT TO GRANT THE VARIANCE FROM ARTICLE XXV, OFF STREET PARKING AND ARTICLE XXVI, SUPPLEMENTAL REGULATIONS ON THE DUMPSTERS, WITH THE STIPULATION THAT ALL OF THE OTHER DEVELOPMENT ON THE SITE BE IN STRICT CONFORMITY WITH EXISTING ORDINANCES. SECONDED BY MR. PAPA. MOTION UNANIMOUSLY APPROVED.**

Springettsbury Township Zoning Ordinance requires the necessary permits to be obtained and the authorized work to be started, within six (6) months after the date when the approval was granted, unless an extension is requested and approved.

If you have questions or comments or if we may be of assistance, please contact us at 717-757-3521.

Very truly yours,

Harish B. Rao, P.E.  
Springettsbury Township Zoning Officer

**DRAFT**

**SPRINGETTSBURY TOWNSHIP  
ZONING HEARING BOARD  
OCTOBER 3, 2002**

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  
Ronald Scheeler  
John Schmitt  
Judith Fisher, Secretary

**MEMBERS NOT**

**IN ATTENDANCE:** James Deitch

**ALSO IN**

**ATTENDANCE:** Gavin Markey, ZHB Solicitor  
Andrew Stern, Director of Economic Development/Zoning Officer  
Jean Abreght, Stenographer  
Sue Sipe, Stenographer

**1. Call to Order:**

Chairman Achenbach called the meeting to order at 7:00 p.m. He introduced the members of the Board.

**2. Action on the Minutes:**

**MRS. FISHER MOVED TO ACCEPT THE MINUTES OF SEPTEMBER 5, 2002 AS SUBMITTED. MR. SCHEELER WAS SECOND. MOTION UNANIMOUSLY CARRIED.**

Chairman Achenbach asked Mr. Stern of the Township whether or not all cases had been properly advertised.

Mr. Stern responded that all notifications had been made.

It was noted that Case #Z-02-14 Zion Mennonite Church has tabled their application

Chairman Achenbach asked whether there was any other business to come before the Board before taking action on the Agenda. Hearing none, he brought the first case to the Board for action.

**1. Case #Z-02-17 Lee and Jack Bentivegna - Michael Scarborough Nutech Design Associates (Site Engineer)**

Chairman Achenbach swore in all those who would provide testimony.

Mr. Scarborough explained that Dr. Bentivegna is proposing a new dental office at the intersection of Eastern Boulevard at Moul Street. A special exception is requested under Section 1801.4 requiring parking facilities to be located on a lot of the principal use. Dr. Bentivegna is proposing a 12,000 square foot building. The site is constrained by front setbacks on three different sides and in the rear it is constrained by an adjoining residential zone requiring a buffer yard. With the square footage and the calculations, 64 parking spaces are required for this site. Because of the constraints, the property will only allow 50 on the principal lot. Therefore, an adjacent lot on Moul Street is the site where the additional parking spaces would be located, which is also owned by Dr. Bentivegna. That lot will contain 14 parking spaces. It fits into the site envelope required with no structure protruding into any of the front yard setbacks. There is an allowance for a slight encroach on side setbacks and it directly butts the buffer yard. As far as the impervious coverage on the site, it is beneath the total allowed, and approximately 30% impervious coverage is being proposed on that site. It was also noted that there is plenty of room on that site to handle the storm water management just for the parking lot. This meets the requirements set forth by the zone for an office district. Other than that with no building structure required or proposed for this, there is no plan for an expansion on any type of loading areas, etc.

Mr. Scarborough further explained in regards to the parking lot, there was an option of either coming out on Eastern Boulevard with this parking lot, but Moul Street was considered a more passable road and safer than trying to direct cars on Eastern Boulevard especially at the intersection.

Mr. Scarborough also indicated that both Lot #1 and #2 are vacant lots.

Mr. Stern indicated that the land development process will look at traffic, parking, and storm water management. Although both properties are considered one property for taxing purposes, they are one parcel. However, since a public street divides the two, the Township had determined that they are two separate parcels for purposes of Zoning Ordinance.

Solicitor Markey stated that the presentation made during this meeting should be tested against the criteria that Mr. Stern put forth in his case summary, which deals with compatibility and suitability, serviceability, accessibility and those related conditions to be comfortable that in fact this is not creating an unreasonable risk or harm to individuals in that area. Solicitor Markey agreed with the Township Solicitor's position on the fact that it is to be treated as a separate lot for the purposes of these proceedings.

Chairman Achenbach inquired if the Board felt that the conditions for granting this special exception 2105.6.B. had been properly addressed at this point and whether there were any that remained not addressed. He asked if anyone had any particular concerns in regards to the issues of purpose, compatibility, suitability, serviceability, accessibility and conformity,

Mr. Scheeler asked how many stories the building would be.

Mr. Scarborough responded that it was one story with a basement.

Mr. Scheeler asked if the building would house anything else besides the dental office, to which Mr. Scarborough responded no.

Dr. Bentivegna further explained that he was essentially just moving his dental practice up to the new location.

Chairman Achenbach asked with respect to the issues of suitability and accessibility whether access to the building from the cross street parking area expected to be a problem of any sort, and if he anticipated any pedestrian problems there with respect to traffic.

Dr. Bentivegna responded that as far as he was concerned he didn't see that he was even going to use the parking across the street. He indicated that he was required by Zoning Ordinance to provide 64 parking spaces. Currently, he operates with 28 parking spaces. The basement was included in the square footage because Mr. Bentivegna's office and laboratory is located in the basement.

Dr. Bentivegna further noted that with 48 parking spaces on the main lot he would not have any problem with parking, since he currently gets by with only 28 parking spaces. The extra spaces would only be needed in case somewhere down the road this practice would expand considerably. Mr. Bentivegna stated that they actually couldn't even have that many practitioners in the office to generate that many patients to require 64 parking spaces.

Mr. Stern explained that there is a section of the Zoning Ordinance that allows the applicant to provide documentation to the Township that the required number of parking spaces exceeds the number, which they believe, is adequate. Dr. Bentivegna has indicated that he does not have a parking problem now since he is moving his practice right down the street. Therefore, he can show these additional parking spaces as future and on the land development plan it will note that this area does not have to be constructed unless the Township gives him written notice to do so.

Ms Fisher asked what would be on the lot if the parking places were not put in.

Dr. Bentivegna responded that the lot would be grass which would be maintained.

Mr. Stern stated that as far as pedestrian access, there are sidewalks proposed around the perimeter of the site and they will be included on the land development plan. There would be access across the back to the building if, in the future, that lot would be proposed they could actually come straight across.

Mr. Achenbach asked if there were any comments either for or against the applicant from those in attendance.

Mr. Harry Joshi came forward to address concerns regarding the lot because of properties, including his that are adjacent to it. Mr. Joshi asked if it would be possible for

the ordinance requiring the number of parking spaces be relaxed to provide that Dr. Bentivegna be permitted to have maybe 10 more parking spaces in the main lot in order that he would not need to put parking spaces in the adjoining lot. Mr. Joshi stated that the surrounding property owners were opposed to putting the parking in the smaller lot, due to the concern of the citizens regarding issues of property values, night time parking in the lot, loud cars, etc. Mr. Joshi stated that when he was present for the last zoning meeting, it was specifically noted that there would be no parking lot and that the lot would be maintained with grass or shrubs. Based on that, the property owners were in agreement. However, now Mr. Joshi was concerned that Dr. Bentivegna would be required by the Zoning Ordinance to install the parking spaces on the lot. Mr. Joshi indicated that he did not want to see that happen and stated his neighbors are in agreement with him. Mr. Joshi indicated that he felt that Dr. Bentivegna had given him a promise that this would not occur.

Mr. Stern responded to Mr. Joshi that it was not Dr. Bentivegna's intent to put the parking spaces in; that it was Springettsbury Township Ordinance that required it. Mr. Stern stated that it was not a matter of Dr. Bentivegna keeping his word, but because of the size of his building, he has to have 64 spaces. Mr. Stern explained that even if the Board approved the spaces they would probably never be built. They have to be shown on the land development plan, so if in the future Dr. Bentivegna would need the additional spaces the Township would have the right to require him to build the other lot.

Mr. Stern further explained that the restrictions could not be relaxed unless Dr. Bentivegna formally requested a variance from those restrictions and there were specific hardships that he would have to show in order to be granted a variance. Dr. Bentivegna has requested a special exception which is a much easier responsibility to show that he meets the requirements.

Mr. Joshi indicated that he understood the requirements but he restated his concerns, including the issue of the congestion of additional traffic on their street. He also stressed their concern about accidents.

Mr. Stern reiterated that in all probability the lot would never be built. It is more or less a procedural requirement that he asked for the additional spaces.

Mr. Jennings and Ms. Jones, other property owners in the area, came forward to state their concerns, affirming those of Mr. Joshi.

Mr. Scheeler asked Mr. Stern how the lot could not be developed, if the Township required them to have 64 parking spaces.

Mr. Stern referenced the Springettsbury Township Zoning Ordinance; Section 1802.7 entitled "Required Parking Adjustment". When an applicant can demonstrate the number of parking spaces required by the Section is excessive to propose to use, the following may be used. A1 and B1-5 indicate that a reduction in the number of spaces may be provided to fit the proposed use as long as an agreement (paraphrasing) that they add the parking spaces in the future, if the Township required it. Mr. Stern stated that Mr. Bentivegna has demonstrated that the parking spaces are not currently required since he already had the business established in the area. He only needs 28 spaces, and he is going to build 50 to start. Mr. Stern stated that he didn't foresee any time in the future

that Dr. Bentivegna would need all 64 spaces, but in order to comply with the ordinance and the land development process, he needed to show that he could add those spaces if it ever becomes necessary. Both pieces of this property were re-zoned by the Township as an office zone. Although Dr. Bentivegna has no interest in building on it, he could put an office building on that property if he wanted to. Since it is not zoned open space there is no requirement for it to stay open forever. Once this land development is put in place, then he can't build on it, so doing this and showing the land development future parking, actually preserves that property. Mr. Stern further stated that putting in place a land development plan for future parking actually has an advantage in that that parcel can not be used for any other use and will remain vacant until parking is deemed necessary by the Township. And if it is never deemed necessary by the Township then it will remain vacant forever.

Mr. Scheeler inquired about the requirement for lighting.

Mr. Stern indicated that the lighting would be addressed with the land development plan. It would be similar to lighting that is being proposed at the doctor's office. It would not allow lighting from the parking lot to glare off the property, but would have to have to be confined lighting within the parking area.

Chairman Achenbach clarified that without the provision that Mr. Stern had just cited in Section 1802, the Ordinance would require that Dr. Bentivegna actually construct these spaces.

Mr. Stern confirmed that that was correct, given the current configuration of his proposed building.

Chairman Achenbach further clarified that in order for Dr. Bentivegna to take advantage of Section 1802, he would need to enter into this agreement with the Township.

Mr. Stern confirmed that there would be a note on the land development plan, which is recorded at the Courthouse that says "only to be installed at direction of Township if deemed necessary by the Township".

Mr. Scheeler asked Dr. Bentivegna if he was interested in developing that lot at all as a parking lot at this time.

Dr. Bentivegna replied that he is absolutely not interested in doing that.

Mr. Scheeler asked if it was because of the extra cost in developing it.

Dr. Bentivegna replied that it was really the price of the land and added that in order to get this large piece he had to buy the entire piece of land.

Dr. Bentivegna further stated that it would serve him no purpose to have to pay to build a parking lot, light it, etc. for no reason.

Solicitor Markey was asked whether the Board could put any restrictions on a motion made for passing the special exception and whether it would just be passed as is and the land development would take care of the restrictions.

Solicitor Markey confirmed that the future steps outlined by Mr. Stern would be carried out.

Chairman Achenbach responded that in evaluating this case, it appeared that the arguments raised by those in attendance would fall under the compatibility issue under special exceptions in that the proposed use shall be in the best interests of properties in the general area, as well as the community at large. The proposed use shall be reviewed in relationship to and its effect upon surrounding land uses and existing environmental condition regarding pollution of air, land and water, noise, potential hazards and congestion, illumination and glare. The essence of the issue is whether or not the likelihood of ever putting asphalt on that lot is sufficiently strong so as to allay the concerns of the local citizens, so that that the problems they have cited will never materialize.

Dr. Bentivegna pointed out that he has been practicing for the last 25 years in that building and there had never been a need for additional parking spaces.

Chairman Achenbach further related that to some extent the Board's hands are bound because the Ordinance required so many parking spaces in this situation. The Zoning Board does not have the ability to change the Ordinance; all they can do is determine whether or not the applicant has satisfied the requirements. Chairman Achenbach pointed out that a value judgement needed to be made as to whether or not the community's concerns outweigh the applicant's requirements with respect to the ordinance.

Mr. Joshi again stated his concerns if the lot would be made into parking spaces.

Chairman Achenbach indicated that he felt too much time was being spent dealing with an issue that may in fact never be a problem, and that he was reluctant to assume the problem so immediately compelling that it needed to be worried about. He assured Mr. Joshi that he understood their concerns, but did not think that the Zoning Board could stand in the way of the applicant under the circumstances. He stressed that this was strictly his opinion, and welcomed comments from the other members of the Board and/or the Solicitor.

Mr. Scarborough stated that during the land development process which they had started, they are pursuing a waiver for not putting parking on that lot, and he welcomed the neighborhood to come and repeat their concerns at the Supervisors meeting in order to not put the parking on that lot.

However, Mr. Stern disagreed with Mr. Scarborough's statement by indicating that there is no process of obtaining a waiver for parking on the other lot. He noted that that would be in the form of a variance to the Zoning Hearing Board for which no application had been made.

Mr. Scarborough indicated that they are not going to pursue the waiver, but that there would be a note on the plan stating that they would, at the Township's recommendation, install that parking lot across the street. Mr. Scarborough commented that if the

neighborhood would come and reinforce that issue, it would help Dr. Bentivegna's cause as well as their own.

Mr. Stern further indicated that it was not an issue. The zoning laws are a determination and he already made the determination so it is not a board issue.

Chairman Achenbach reiterated that this was a situation where the applicant has chosen to seek special exception utilizing Lot #2 for additional parking. If the applicant had chosen another tact, he could have come before the Board asking for a variance to reduce the number of required parking spaces which the Board would have evaluated the ordinance to determine whether or not was is a reasonable ordinance and whether or not 64 spaces would be needed. Chairman Achenbach related that the Board had a much more straight forward decision under the special exception approach than it did under the variance approach, so the real question was whether the problem was sufficiently compelling at this point to cause concern under Section 2105.6.b 2 as to the compatibility of this proposed parking space with respect to the neighborhood.

Chairman Achenbach said the only situation he could foresee was if Dr. Bentivegna no longer owned the property tomorrow, and it was up for sale and converted into another business. He asked whether the lot could then be developed.

Mr. Stern replied that the answer was that the property is zoned as office space. Anyone who met any of the requirements of the office zone could build there at any time in the future as long as its zoned office. There are other uses that are permitted in an office zone. Mr. Stern further noted that it was re-zoned. If there were promises given to the public by somebody during the re-zoning process, that would be unfortunate, but there are no conditions associated with rezoning.

Chairman Achenbach questioned the fact that at this time it would be impossible for the property owner to sell either parcel by itself, because it is one parcel for ownership purposes.

Mr. Stern indicated his disagreement and stated that the Township Solicitor is of the opinion that it is now a separate parcel by the fact that the road divides it. Mr. Stern further stated that it was his understanding that if they want to pursue it as subdivision, they could contact York County Tax Map Office and request that it be given a new number. He asked Solicitor Markey if he agreed with that.

Mr. Markey agreed that is the case; it is a natural subdivision of that property.

Mr. Stern further stated that granting this special exception and having the land development plan provide for this as parking assures that these properties will not be separated and insures that nothing would be built on the other property.

Chairman Achenbach asked if Lot #2 was sold to another party, would the use of the land be restricted to parking because of Dr. Bentivegna's office on the other side of the street.

Mr. Stern replied that would not necessarily be the case. If the special exception is approved and the land development plan shows the parking on the other lot, it will always remain dedicated to that use.

Chairman Achenbach asked Mr. Joshi how he would feel about that lot being vacant for many years.

Mr. Joshi said that was fine with them because the way the lot is right now they don't have any problems.

Chairman Achenbach asked if this agreement is entered into whereby the doctor does not have to build the parking lot at this point, but at some future time it would be determined that the lot must be built, would there be a mechanism in place at that time to allow these arguments to be raised.

Mr. Stern affirmed that Dr. Bentivegna or the owner at that time could request a variance. His concern with a variance at the current time is as was previously stated. If Dr. Bentivegna would move out and another business moves in which would need the additional parking spaces and the Board would have granted a variance, that could cause problems. Mr. Stern stated that if they were requesting a variance, he would be recommending denial of the variance because it goes with the property forever and ever. And while Dr. Bentivegna does not need the parking, nothing would require him to stay there.

Mr. Stern reiterated that the parking requirement is based on the size of the building because in this case Dr. Bentivegna has a basement where his office and laboratory will be located, so there is not a lot of parking necessary for the basement. However, if he moved out and an insurance company, for example, moved in they could put many people in a 6,000 square foot basement.

Chairman Achenbach asked about the process by which the Township would at some point in the future direct the property owner to construct the additional parking spaces. He asked whether that would be a publicly disclosed process or could that just happen without the public being aware.

Mr. Stern indicated that the only time that ever happened, the applicant (and this was Kingston Square Shopping Center) actually came to the Township before the Township went to them so it was never tested. There had never been another case where anyone was told to add the parking. Mr. Stern further related in the case of Kingston Square shopping center, had they not volunteered to do so, probably at some point in the future the Township would have required them to do so. Mr. Stern thought it would have been brought up at a Board of Supervisors meeting to insure that they concurred with the decision prior to the Township contacting them.

Mr. Scheeler inquired as part of the special exception and the subsequent section that Mr. Stern cited, would there be an agreement that would be entered into between the Township and the property owner. He asked whether the Board could make a recommendation to Mr. Stern, who in turn could recommend to the Township Solicitor that when the land development plan is being pursued and this agreement is being negotiated, that there be a provision to state that in the future should this area need to be converted into a parking lot that the Supervisors consider the layout of the lot and the plan at a public meeting so that there could be public comment. That would allow the surrounding property owners another opportunity to voice their concerns.

Chairman Achenbach asked what would be the process for this to occur.

Mr. Scheeler indicated that he didn't think there was a procedure for when the zoning officer or the Township makes the determination that that parking is needed. It would simply have to be constructed in accordance with the land development plan as it is outlined. There would be a letter to the property owner, however, Mr. Scheeler did not think there is a set procedure where they notify all surrounding property owners that the lot is going to be developed as a parking lot. Mr. Scheeler indicated that what he was trying to propose is a procedure that would be permissible and that would simply be this contract that is going to be entered into and be referenced on the land development plan so it will run with the land. It would show up as a record when the notation is that there is an agreement affecting that land. So future owners are going to know that there is this process, and surrounding owners would get another chance to raise their concerns.

Chairman Achenbach asked what would be the venue for their second chance and whether they would have the opportunity at that time to affect the construction, but not to prevent the construction.

Solicitor Markey replied that they would have the ability to voice their concerns once more and that would be before the Township Supervisors and not the Zoning Board.

Mr. Stern disagreed with that forum. He noted that the land development plan that is now soon to be submitted, would show exactly how it would be built. It would show how the pavement is going in, how the parking spaces will be laid out and where the lighting will be. Mr. Stern indicated that at the point the parking is required, there would be a few things to be considered. First of all, the applicant could certainly appeal the Zoning Officer's decision requiring him to put in the parking. Second, if the Zoning Officer does require the parking be added, then it would be because the parking lot is full. Mr. Stern further noted that if the parking lot is full, he did not think the applicant would ask for a variance from parking spaces, because at that point he would need the parking spaces. And third, when the parking lot is full and there are cars parked on the street, that is when the neighbors would complain to the Township, which would then force him to issue the letter. Mr. Stern felt the Board was looking at the situation backwards. The process, the special exception, and the adjustment from the parking requirement is helping the neighbors although he felt they did not understand, or agree with him. But this would be the method to insure that that lot is not developed and to insure in the future that there is not a parking problem, and to insure that someone doesn't dump gravel on the lot and start parking on it. All of the requirements of the Ordinance would be dealt with and addressed now so that it is done properly if and when it would ever occur.

Chairman Achenbach indicated his understanding and thanked Mr. Stern for his explanation.

Chairman Achenbach as if there were any other comments. He called for a motion.

**MR. SCHMITT PROPOSED A MOTION TO GRANT THE SPECIAL EXCEPTION AS REQUESTED BY THE APPLICANT IN THE CASE Z-02-17. MR. SCHEELER WAS SECOND.**

Chairman Achenbach asked for any further discussion.

**MOTION UNANIMOUSLY CARRIED.**

Mr. Achenbach thanked Mr. Scarborough and Dr. Bentivegna for their presentation.

Mr. Stern reported that there are no new cases for next month. If Zion Mennonite withdraws there will be no meeting.

**ADJOURNMENT:**

Chairman Achenbach adjourned the September session of the Zoning Hearing Board at 7:45 p.m.

Respectfully submitted,

Secretary

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