

APPROVED

**SPRINGETTSBURY TOWNSHIP
ZONING HEARING BOARD
MAY 5, 2016**

MEMBERS IN

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

ALSO IN

ATTENDANCE: John Luciani, Acting Zoning Officer
Gavin Markey, Solicitor
Christopher King, 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. APRIL 7, 2016

MOTION MADE BY MR. SEILER TO APPROVE THE MINUTES OF APRIL 7, 2016 AS PRESENTED, MR. SCHMITT SECONDED. MOTION UNANIMOUSLY PASSED.

Chairman Achenbach asked Mr. Luciani if the cases were properly advertised. He responded that notifications had been made.

3. OLD BUSINESS

A. Case Z-16-05 Roberts Oxygen Company, Inc.

All witnesses were sworn in.

Mark Kittlinger

Attorney Craig Sharnetzka, CGA

General Case Summary:

§325 Zoning - Article XIV C-H Commercial Highway District - 42 Permitted Uses

Comments: Applicant is requesting a variance to allow the sale of welding supplies and the sale and storage of compressed gases for wholesale, welding and other applications. The primary use location is Map 46-JI, Parcel 23K at 2121 Industrial Highway. The variance has been filed by the proposed tenet in the (C-H) Commercial Highway zoning district.

Recommendations: The applicant intends to sell welding supplies and compressed gases. The gases the applicant has identified being sold will be stored within a secured enclosure at the rear of the building. The enclosure will be constructed of masonry and chain-link privacy fence. The applicant has provided a plan showing the location of the proposed storage area to the rear of the lease space. If the Findings of Fact and Conclusions of Law meet with the approval of the Board, staff would not oppose the applicant's request.

Attorney Markey stated that at last month's meeting a continuance was agreed to by the applicant and the Township to determine IF an agreement could be reached regarding the project and some of the objections. He noted a settlement agreement has been reached by both parties with stipulated conditions that are satisfactory to both the applicant and the Township.

Attorney King indicated a stipulated agreement was executed today May 5, 2016. He noted the condition as set forth:

1. The Township agrees the company is permitted to use the property as a retail sales location under the terms provided under this agreement.
2. The company (Roberts Oxygen) agrees that the property will be for the retail sale only of small electronic welding machines, related welding accessories, compressed gases and other related items.
3. The company agrees that it will not sell any products or merchandise wholesale to other industrial firms or industrial workers.
4. The company shall adhere to the layout for its retail products and merchandise at the property in accordance with the layout as shown on Exhibit A which will be included with the agreement detailing a map and a diagram of items at the property.
5. The company agrees that if it desires to extend or expand its use beyond what is permitted by this agreement and by the Springettsbury Township zoning ordinance that it will first acquire the necessary authorization from the Township and/or the Zoning Hearing Board.
6. The parties agree this agreement shall be submitted to the Springettsbury Township Zoning Hearing Board and incorporated into its decision approving the applicant's appeal of the zoning officer's determination in the above captioned zoning appeal.

Attorney King indicated from the Township's perspective they would be seeking the Zoning Hearing Board decision to allow the use as laid out in this agreement for the applicant.

Attorney Markey indicated there were two items when the application was filed, one was an appeal of the zoning officer's determination that the use the applicant had submitted was not a retail use within the meaning of the ordinance. He recommended if the Board was inclined to accept and approve the project now that the Township engineer, the Township and the applicant are satisfied, a motion would be made to sustain the zoning officer's interpretation. By doing so a precedent would not be created in any future situation where similar uses might be considered pure retail within that commercial highway district. Attorney Markey indicated he would prepare a formal written decision incorporating that agreement.

MS. CUNNINGHAM MOVED IN THE CASE OF Z-16-05 TO SUSTAIN THE ZONING OFFICER'S INTERPRETATION AND DETERMINATION THAT THE PROPOSED USE IS NOT A RETAIL USE WITHIN THE COMMERCIAL-HIGHWAY ZONE AND TO APPROVE THE USE VARIANCE SUBJECT TO THE STIPULATED SETTLEMENT AGREEMENT OPERATING AS CONDITIONS ON THE APPROVAL. SECONDED BY MR. SEILER. MOTION UNANIMOUSLY PASSED.

4. NEW BUSINESS

Chairman Achenbach relinquished the chair to Mr. Seiler for the remaining cases, since he needed to leave the meeting.

A. Case Z-16-06 David & Jilla Spitzer – 2361 Druck Valley Road

All witnesses were sworn in.

General Case Summary:

§325-20 Area and bulk requirements.

C. Setbacks. Minimum front yard setback of 35’

Comments: Applicant is requesting a special variance to allow for the encroachment of the front yard setback in order to build a garage to accommodate his wife due to her deteriorating health. Location of the site is at 2361 Druck Valley Road (Map 46-17, Parcel 0029A). The minimum front yard setback for the R-10 district is 35 feet. The applicant claims that the ends of the house are too steep to build a structure and gas meter and HVAC are located there. Applicant also states that it would be cost prohibitive for them to build it elsewhere aside from the front of the house. Staff has attached some aerial and street front views of the site to reflect the character of the area.

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.

Mr. Luciani indicated the applicant’s request is for a garage to be placed in their front yard. The exhibit provided gives a dimension from an existing paved street which is Druck Valley Road. Because there is no formal survey, they do not know where the right of way line is and also do not know the distance of relief. The Ordinance calls for a minimum 36 ft. minimum building setback. Since there is some confusion on the application, Mr. Luciani indicated a discussion was held with Attorney Markey to determine if the applicant would consent to a continuance to next month until they can provide supporting information as to the location of the property line and right of way to determine the extent of the encroachment needed.

Mr. Spitzer indicated that having spoken with Mr. Luciani they concur and would agree to a continuance on this matter until next month. They will obtain the services of a surveyor to provide a survey and supporting information.

MR. SCHMITT MOVED THE CASE OF Z-16-06 TO ACCEPT THE CONTINUANCE UNTIL THE NEXT REGULARLY SCHEDULED MEETING. SECONDED BY MS. CUNNINGHAM. MOTION UNANIMOUSLY PASSED.

B. Case Z-16-07 Gable Company

All witnesses were sworn in.

Peter Waldron, VP Real Estate, Mattress Warehouse

Warren Weaver, Sr. Comp Manager, Gable Signs

General Case Summary:

§325-107 Business Identification signs.

A. Sign area standards: The maximum total sign area of any business sign shall be based on the requirements listed in the chart below:

N-C: For structures smaller than 5,000 square feet, maximum sign area shall be 16 square feet.

Comments: Applicant is requesting a special variance to allow the increase of maximum signage area of an existing store at 3014 East Market Street (Map 46-21, Parcel 0026). The proposed sign involves 17

channel letters that is similar to applicant's other store locations. The site is adjacent to the C-H district where stores located across the street are allowed to have a maximum signage area of 35% of building front area or 10% of street frontage. Staff has attached an aerial of the site to reflect the character of the area along with materials supplied by the applicant.

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.

Mr. Waldron stated they are a mattress firm out of Frederick, Maryland with 200 stores throughout the Mid-Atlantic in eight states, with 75 stores throughout Pennsylvania. Three Mattress Warehouse stores are currently in the York market. The building they are currently leasing is located at 3014 East Market Street. They are here to obtain commercial acceptable signage.

Mr. Weaver indicated the building is currently zoned Neighborhood-Commercial which encompasses a small area surrounded by Commercial- Highway and Mixed Use zoning. Those two zones encompassing this property have a sign allotment for 35% of the building frontage, which would allow them a much larger square footage of signage than in the N-C which allows for only 16 sq. ft of sign. Mr. Weaver pointed out if they were one door over or directly across the street they would be allowed 340 ft. along the side of the building and 212 sq. ft. on the shorter side of the building. He noted they are asking for just over 150 sq. ft. – 103 ft. on the front facing East Market Street and 46.7 sq. ft. on the side facing Rita's Italian Ice. He noted this would allow for commercial visibility and also for safety reasons since this location is not visible until a vehicle is level with the building. He noted the current building has been vacant for many years and presents an opportunity for their business to succeed in this section of the marketplace.

Mr. Weaver pointed out the location of the building on the plan in relation to where the Mixed Use and C-H zones are located on the edge of the property line.

It was noted there is an existing non-conforming pole sign located on the property which could be refaced but the size cannot be changed. There is also a non-conforming drive-through on this property.

Mr. Weaver stated they would agree not to use the drive-through and would work with the Township to remove the pole sign, if permitted to obtain the 150 sq. footage signage on the two sides.

Discussion was held concerning the necessity of the requested signage to be 150 sq. ft. Mr. Weaver indicated they would work with the Township on the size for the front to be a smaller letter. Currently it is drawn for 3 ft. letters on one side and 2 ft. letters on the other side. There was opposition to the size of the sign facing Market Street to be 103 sq. ft.

Attorney Markey stated from an aesthetic and land use planning perspective he was not troubled by the proposed signage but also recognized it goes against the zoning scheme. He indicated it was the Board's discretion to make that determination.

Mr. Weaver indicated he and Mr. Waldron could go back and redraw the signs each to 75 sq. ft. which would reduce the size significantly and also remove the pole sign. They also agreed to abandon any use of the drive through.

Attorney Markey reiterated the proposal by the applicant to be 75 sq. ft. signage on the Market Street façade, and 75 sq. ft. on the Rita's Italian Ice side with the conditions to remove the pole sign and to abandon the drive through with respect to the property.

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

Charles Stuhre

Mr. Stuhre indicated he was in favor for getting rid of the pole sign since he felt there are already too many pole signs in the Township.

MR. SEILER MOVED IN THE CASE OF Z-16-07 TO APPROVE THE VARIANCE WITH A 75 SQ. FT. SIGN FACING MARKET STREET AND A 75 SQ. FT. SIGN FACING RITA'S ITALIAN ICE WITH THE POLE SIGN REMOVED AND THE DRIVE THROUGH TO BE ABANDONED. MR. SCHMITT SECONDED. MOTION PASSED. 1 OPPOSED.

5. ADJOURNMENT

ACTING CHAIRMAN SEILER ADJOURNED THE MEETING AT 6:45 P.M.

Respectfully submitted,

Secretary

/ses