

APPROVED

SPRINGETTSBURY TOWNSHIP  
ZONING HEARING BOARD  
JUNE 1, 2023

**MEMBERS IN**

**ATTENDANCE:** Dale Achenbach, Chairman  
David Seiler, Vice Chairman  
Sande Cunningham, Secretary  
Mark Bair  
Chris Shuttlesworth (via Zoom)  
Brian Kauffman (Alternate)

**ALSO IN**

**ATTENDANCE:** Timothy Holmes, Zoning Officer  
Gavin Markey, Solicitor  
Randall Heilman, Director of Community Development  
Abby Gibb, Communications Manager  
Jill Trostle, Stenographer

**1. CALL TO ORDER**

**A. Pledge of Allegiance**

Chairman Achenbach called the meeting to order at 6:03 p.m. and led the Pledge of Allegiance. He introduced the members of the Board and Springettsbury Township staff.

**2. ACTION ON THE MINUTES**

**A. MAY 4, 2023**

**MS. CUNNINGHAM MOVED TO ACCEPT THE MINUTES OF MAY 4, 2023, AS SUBMITTED, SECONDED BY MR. SEILER. MOTION UNANIMOUSLY CARRIED.**

**SWEARING-IN OF TOWNSHIP STAFF**

The following Township staff were sworn in: Tim Holmes, Zoning Officer, and Randall Heilman, Director of Community Development. Mr. Holmes confirmed that all cases were properly advertised prior to the meeting.

**3. OLD BUSINESS**

**ZHB-2023-0006 MT. ZION COMMONS**

Case ZHB-2023-0006 is a continuation of testimony for a variance request from Township Ordinance Section §325-114 submitted by Mt. Zion Commons LLC, requesting a variance to reduce the minimum required parking spaces in a proposed mixed use development. The present zoning is T-C, Town Center Overlay with the underlying M-U, Mixed Use district. Mr. Holmes reported that the Board of Supervisors were split on whether to send a representative for the Township, and chose to let the Zoning Hearing Board make the final decision. Specifically, the variance request is for the total 110 required spaces for the drive-through restaurants to be reduced to 55 spaces, and for the two parking spaces per dwelling to be reduced to 1.5 spaces per dwelling. The following persons were sworn in.

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Stacey R. MacNeal, Esq., Attorney with Barley Snyder Attorneys at Law  
John McKenna, Director of Development, Madison Development Group Inc.  
Eric Mountz, P.E., Traffic Engineer, Traffic Planning and Design Inc.  
Chris Riggle, Civil Engineer, Colliers Engineering and Design

Stacey R. MacNeal, Esq., Barley Snyder

Ms. MacNeal continued to conduct testimony on behalf of the Mt. Zions Commons project. The first witness was Mr. John McKenna.

John McKenna, Director of Development for Madison Development Group Inc.

Mr. McKenna presented Applicant Exhibit 7, a brief video taken by a videographer on two separate evenings (May 24, 2023 and May 30, 2023) showing peak parking in the evenings from 8:30-10:30 pm for four apartment complexes, to verify sufficiency of 1.5 spaces per unit for multi-family dwellings. The complexes visited included: Buttonwood Gardens, Wyndham Pointe, Wyndamere, and Greenspring Apartments. The video parking analysis identified a range of 1 to 1.4 required spaces per unit. Mr. McKenna noted that he personally visited the same apartment complexes on a separate evening from the videographer to verify the videographers' findings. Wyndham Point is 100% occupied and Greensprings is 95% occupied. It was Mr. McKenna's opinion that the data collected and presented by the Traffic Engineer last month was accurate and consistent with actual utilization by multi-family projects within the Springettsbury Township, and coincides with the trend of 1.5 parking spaces per unit as shown by the most current ITE data. In response to a question by Ms. Cunningham, Mr. McKenna confirmed that peak demand for multi-family apartment dwellings occurs in the evening when every tenant is home. Ms. Cunningham noted that some tenants may work second shift, which would affect the accuracy of the data collected. Each of the complexes visited are one, two and three bedroom units and, during the day, many of the lots are only 25% full. Mr. McKenna shared that Mt. Zion Commons is close to an urban area, which requires .5 to .8 spaces per unit.

Eric Mountz, P.E., Traffic Engineer, Traffic Planning and Design Inc.

At the last meeting, Mr. Mountz was asked to review parking data for multi-family dwellings from the standpoint of number of bedrooms per unit. Applicant Exhibit 4 was presented demonstrating Mr. Mountz' analysis in response to this question. ITE data presented at the last meeting was based on the number of multi-family dwellings in the complex. Exhibit 4 provides the estimated parking required based on bedrooms per unit. Fifty-five percent (55%) of the units in Mt. Zion Commons would be one bedroom and forty-five percent (45%) would be two bedrooms. Based on these calculations, you end up with 77 one bedroom units and 63 two bedroom units for a total of 203 bedrooms for the entire development. Based on dwelling units, the anticipated demand was 184 spaces for the weekday peak and 171 spaces for the Saturday peak. Based on bedrooms per unit, the weekday peak is 153 and the Saturday peak is 157 spaces. Comparison of the data indicates that the parking estimates based on dwellings is more conservative than parking based on bedrooms per unit.

Mr. Mountz referenced Exhibit 5, a letter dated May 30, 2023, is an analysis based on the parking requirements outlined in the Springettsbury Township Zoning Ordinance. The Zoning ordinance would require 496 total parking spaces during peak parking time of Monday-Friday from 6 p.m. to midnight. The data analysis provided by Mr. Mountz indicated 482.6 spaces. When considering shared parking during the same peak parking hours, a reduction of 13 spaces from the ordinance requirements is minimal. Mr. Mountz provided a third analysis using the Township's base parking data, showing peak demands of

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356 spaces Monday to Friday, and 394 on Saturday, which are both below the total 407 spaces proposed in the Mt. Zion Commons plan. Based on the additional analysis provided since the last meeting, it was still Mr. Mounz' opinion that the proposed parking of 407 is adequate to meet parking demands.

Adam Whalen, Inch & Company, 2950 Lewisberry Road, York, PA 17404

Mr. Whalen stated that Inch&Co. built a similar product in Mt. Wolf Boro, whose ordinances require only 1.5 parking spaces per unit. The complex is fully leased and demand has been adequate to date. Inch&Co. follows ITE's parking generation manual which recommends 1.26 to 1.36 per unit. Mr. Whalen believes that 1.5 spaces per unit proposed would be adequate and provides more green space. Mr. Whalen has not experienced issues related to lack of parking in his past development projects.

Questions posed by Zoning Board members

Ms. Cunningham asked how long the Mt. Wolf development has been operating, to which Mr. Whalen responded a couple weeks.

Mr. Achenbach asked if there is a process in place to evaluate the adequacy of parking after development and occupancy to measure whether or not predicted demand is working. Mr. Holmes responded there is no means to measure or evaluate adequacy of parking after a complex is up and running. Mr. Heilman shared there would be value in having such a process in place, but confirmed that there is no data readily available at this time. Mr. McKenna reiterated that there would be a declaration of condominium which would include a mechanism to restrict new tenants to one vehicle after the complex reaches 95% occupancy, in the event there are parking issues. Ms. Cunningham asked about assigning one parking space per unit. Mr. McKenna asked that this idea be retracted as an option because of its difficulty to manage and enforce.

It was recommended the two parking variances requested be treated as one variance by the Zoning Board.

Public Comments

Mr. Markey addressed those in the audience who wished to provide public comments: There is only one isolated matter before the Zoning Board this evening which is a request to obtain a variance for the parking spaces. No public comments would be heard concerning the overall propriety of the project, the layout of the facility, traffic impact on surrounding roadway systems, nor property value depreciation. These matters are to be addressed by the concerned public and residents when a conditional use hearing is held with the Board of Supervisors. Mr. Markey stated the Mixed-Use concept is a permitted use within the zoning district. The Chairman can eliminate public comments that are repetitive or irrelevant testimony. Any one in the audience may offer public input subject to these limitations.

Attorney MacNeal noted the importance of determining standing of each person before comment is provided. Mr. Markey explained that a member of the audience may also become a party to the proceedings, which means the individual has legal standing because they could be adversely impacted. A person with legal standing could file a legal appeal or lawsuit in the event they would be dissatisfied with the Zoning Hearing Board's decision, and/or be required to appear in court. To request to be a party to the proceeding, the individual must indicate this on the record at the time they offer their comments and would then be subject to cross examination by the applicant's attorney.

Members of the audience who wished to provide testimony for or against the applicant were sworn in by the Chairman.

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Carol Tanzola, 3009 Trout Run Rd. York, PA - Public Comment only

Ms. Tanzola has lived in the township for 35 years and stated that the apartment complexes presented in the video this evening are set up differently from the proposed Mt. Zion Commons project, which is directly adjacent to retail space, restaurant space, a gas station, etc. Ms. Tanzola's biggest concern is safety and how fire and police are going to get through the complex when it is Christmas day and the parking lot is full.

Marta Peck, 90 Jamison Drive, York, PA - Party with Standing

Ms. Peck stated she lives directly behind the proposed complex. Attorney Markey recommended Ms. Peck be considered a party due to her close proximity to the project in the event an appeal was filed. Ms. Peck will be able to view the apartment building from her back porch and it will impact the quality of her life. Ms. MacNeal had no objection to her party standing. Ms. Peck provided context to her concerns about the parking through review of past meeting minutes, the 2006 comprehensive plan, the 2010 Town Center plan, various development plans, newspaper and log posts dating back a decade. She shared that the basic concerns of the past comprehensive plan were preservation of existing neighborhoods, encouraging compatible architectural styles that are sensitive to the existing built environment, enhancing the character of commercial development to better affect the values and resources of the community, strengthening the ordinances to maintain quality of life, and to protect historic properties. Ms. Peck noted that the only amenities provided by the Mt. Zion Commons plan to make it a town center overlay are the sidewalks and green strips of grass. It is Ms. Peck's opinion that the project proposal is not a neighborhood, nor pedestrian friendly, and is not a town center such as downtown York which has trees, flower planters, wide sidewalks, apartments and condos, outdoor dining, small retail shops, offices, entertainment, murals, and banners. She noted that the Mt. Zion Road area was not identified in the 2010 comprehensive plan.

Mr. Markey stated that the testimony provided so far would be more appropriate at the conditional use hearing with the Board of Supervisors.

It was Ms. Peck's opinion that the Zoning Board has been asked to take a leap of faith. This area has been rezoned even though the York County and Springettsbury Township planning commissions did not recommend approving the zoning changes. Ms. Peck stated that the York County Planning Commission's perception was that the rezoning request would benefit the developer, not the Township. Ms. MacNeal objected to this statement noting the ruling was not relevant and the statement is mischaracterizing what has occurred as it relates to the Mt. Zion Commons property because the property was not rezoned, and the Town Center Overlay was put in place six years ago. Attorney Markey reminded Ms. Peck that her testimony on this topic applies to the conditional use hearing.

A summary of Ms. Peck's concerns include the following:

- She contacted a representative at York Township who is not aware of shared use parking examples.
- Ms. Peck would like data on maximum peak hour demands.
- No street parking is available in the area.
- There does not appear to be 75 additional spaces available at the convenience store according to the plot plan rendering.
- What are the addresses for the two additional properties acquired by the developer?

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- If apartment residents park in the 75 additional spaces, how can they safely cross the busy access road because the diagram does not show pedestrian crosswalks to cross the two major access roads.
- Restricting tenants to one car is not a good marketing tool.
- The community would have to walk around the buildings to get to the restaurants.
- Ms. Peck expressed concern that the applicant will continually request variances long after the project is underway.
- In summary, Ms. Peck believes the variance request is untested, risky and incomplete.

Ms. MacNeal cross-examined Ms. Peck, asking if she owns or rents her home. Ms. Peck responded she has rented her home for six years. Ms. MacNeal asked if it is Ms. Peck's understanding that people can't park along Market Street. Ms. Peck responded they cannot park along Market Street coming east before you get to Mt. Zion Road, and no one parks along the street on Mt. Zion Road.

### Dakota Fauver

Dakota Fauver was sworn in for public comment. Mr. Fauver shared he is in favor of the parking variance because he believes there are already acres of parking in the Township that are under utilized. He stated the Township has planned for maximum parking for decades, and it is not needed. He further commented that the Mixed-Use zone encourages walking, especially where transit stops are available. Mr. Fauver expects that the new comprehensive plan will reduce parking requirements.

### Questions of the Board

Mr. Bair stated some of the safety concerns do have merit, but asked if they should be addressed under the conditional use hearing. Mr. Markey responded safety concerns should be taken into consideration while evaluating the substantive nature and specificity of the comments; however, informal discussions with York Township representatives cannot be substantiated and should be viewed as hearsay. The Zoning Board must consider the law that is applicable to the variance request, as well as the burden of proof provided by the applicant. Mr. Markey cited various case law concerning parking variances. Because it is a dimensional variance in conjunction with a permitted use, there is a reduced burden of proof placed upon the applicant, and the Zoning Board must determine if sufficient evidence and testimony have been offered to justify granting the variance.

Mr. Bair addressed the audience, encouraging them to complete the survey provided in the Township newsletter to provide input that would be considered in the development of the next comprehensive plan.

Attorney MacNeal requested to make some points of clarification on Ms. Peck's testimony:

There are multiple interior crosswalks in the plan and they are on the proposed conditional use plan. A modification will be requested on the interior landscaping which is part of the conditional use process. The 75 parking spaces mentioned by Ms. Peck, are on the plan. Ms. MacNeal noted there have been some public online postings of other concept plans, but those are not what has been presented to this Board.

Ms. Cunningham asked what kind of modifications would be requested as part of the conditional use. Ms. MacNeal replied one of the modifications is the width of the access drives; one is to move the interior landscaping to the exterior of the parking lots and other places within the development; and one would allow the one apartment building to not have its access facing Mt. Zion Road.

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Mr. Achenbach entertained a motion on the matter.

**MR. BAIR MOVED IN THE CASE OF ZHB-2023-0006 TO APPROVE TWO VARIANCES TO §325-114.D TO REDUCE THE MINIMUM REQUIRED PARKING SPACES IN THE PROPOSED MIXED USE DEVELOPMENT. MR. SHUTTLESWORTH SECONDED THE MOTION. THE MOTION PASSED WITH A VOTE OF 3 AYES AND 2 NAYS.**

**RECESS:** A brief recess was taken at 7:28 p.m. The meeting resumed at 7:33 p.m.

**4. NEW BUSINESS**

**ZHB-2023-0007 - Kingston Square Associates, LLC, 2500 Eastern Boulevard, York, PA 17402**

Mr. Holmes reported an application was submitted by Kingston Square Associates, LLC regarding a proposed use at the property located on 2500 Eastern Boulevard, York, PA 17402 to allow adaptive reuse of mini-storage in a space less than 70,000 square feet. The property is zoned T-C, Town Center Overlay, with an underlying M-U, Mixed Use District. Current zoning laws prohibit storage unless the requirements of §325-197A.8. are met. Mr. Holmes stated it is the Township's opinion that self-storage is a low impact and low intensive use.

Witnesses were sworn in.

Stacey R. MacNeal, Esq., Barley Snyder

Ms. MacNeal reported multiple conversations were held with the Township Solicitor and Zoning Officer to determine the relief needed for this property, which is zoned Mixed Use (MU) in the Town Center Overlay and does allow adapted reuse as mini-storage, but the definition of mini-storage requires a minimum of 70,000 sq. feet. It was determined a dimensional variance was needed to allow adaptive reuse as mini-storage in an area that is less than 70,000 sq. feet.

Solicitor Gavin Markey asked that the record reflect the correspondence of May 23, 2023 from Stacey MacNeal to Timothy Holmes memorializing the conversation with Solicitor Rausch confirming that the request submitted to the Zoning Board is for a dimensional variance, not a use variance.

Blake Shaffer, Bennett Williams Commercial

Mr. Shaffer stated Bennett Williams Commercial has been the leasing agent for 2500 Eastern Boulevard for the better half of 20 years, prior to Mr. Tawil owning the property. Mr. Shaffer has been the lead leasing agent for the property for seven years and is very familiar with the property. The property is just over seven acres in size. The leasing plan was displayed for reference. Mr. Shaffer's testimony is summarized below.

- Over the years, improvements have been made to the property with the goal of upgrading co-tenancy, removing less favorable tenants and adding more favorable tenants, maintaining good standing with the Township and the residents, and ensuring it is a commodity most of the residents can use.
- The shopping center is at least 20 years old
- It currently has five vacancies, which has been a downward trend, most likely because it is older and outdated.

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- Most of the vacancies occur in the corner of the shopping center which provides the least amount of visibility and the least amount of accessible parking.
- Tenant spaces 12-13 and 25-26 are proposed for reuse as mini-storage. One of the two spaces proposed for mini-storage is located on the far right of the site adjacent to Subway.
- Spaces 12-13 are 3,833 sq. feet and are a challenge to lease due to tight parking spaces. It is also difficult to add signage needed for retail tenants.
- Spaces 25-26 have been vacant for two years due to challenges posed by the interior layout, as well as lack of parking.
- The shopping center was designed under older standards and the permitted uses of the current zoning laws are not feasible with the retail space as it is.
- The current tenants require high volume parking.
- Storage in retail shopping centers has grown exponentially and has a low impact on parking use.
- Approval of reuse for mini-storage would allow the empty spaces to be productive, while requiring minimal parking access.

Harry Tawil, Owner/Manager, Kingston Square Shopping Center, 2500 Eastern Boulevard, York, PA 17402

Mr. Tawil has been the owner and manager of the property at Kingston Square Shopping Center since 2011, about 12.5 years. Mr. Tawil confirmed that his experience with the challenges in renting spaces is consistent with Mr. Shaffer's testimony. Mr. Tawil proposes to use spaces 12-13 and 25-26 as self-service mini-storage units of various sizes in order to increase occupancy rates of the shopping center's rental spaces. Mr. Tawil's testimony is highlighted below.

- The mini-storage operation would be open from 6 a.m. to 10 p.m.
- Units would be accessible from the front and the back.
- Signage would be placed on store fronts only.
- No new lighting is proposed, with the exception of motion sensors in the back of the space.
- All storage would be confined to the interior of the building.
- Exhibit 1 - Rental Agreement for Kingston Square tenants was presented and is consistent with the rental agreement required of the mini-storage tenants. Exhibit 1 was missing odd numbered pages; however, Ms. MacNeal continued the testimony referencing her own copy of exhibit 1.
- Storage units may only be used for storage. Units may not be used to repair equipment, for office space, to store dangerous materials, nor used as living space.
- Uses and non-uses would be fully enforced.
- Renovation of the spaces would comply with all building codes. Minor renovations would occur to the interior space only. The exterior would not be changed.
- One of the spaces would include a small office to manage rentals.
- Total units for storage would not exceed 100 units.
- There will be sales events from time to time similar to sales conducted by U-Haul.
- The shopping center has a total of 277 parking spaces
- Applicant Exhibit 2 is an analysis based on the current tenants and the township ordinance requirements of how many spaces the current tenants require out of the 277 total spaces. The total spaces required by current tenants is 226. The number of spaces required for the mini-storage use is 4 or 5, so there is ample parking available.
- It is Mr. Tawil's opinion that his property has unique physical characteristics or conditions that have created a hardship. In addition, the retail industry is suffering from the Amazon effect, where customers can purchase anything desired on Amazon, eliminating the need to visit retail stores in person. Less services are required by those working from home since 2020. These

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conditions and the outdated layout of the shopping center have resulted in the number of vacancies.

- It is Mr. Tawil's belief that these spaces cannot be utilized in strict conformity with the zoning ordinances.
- Mr. Tawil has not created this unnecessary hardship.
- Approval of the variance to decrease the minimum square footage from 70,000 to 12,000 would not alter the character of the neighborhood, and is the minimum variance needed for relief.

There were no witnesses who wished to speak for or against the applicant.

Solicitor Comments on the Application

Attorney Markey reiterated the request is dimensional in nature. He recommended if the Board is inclined to approve the variance, that a condition be placed on the approval that there be continued compliance with §325-132.1 which is the adaptive reuse to mini storage facility requirements.

**IN THE CASE OF ZHB-2023-0007, MR. SEILER MOVED THAT THE VARIANCE TO §325-197(D3) BE APPROVED SUBJECT TO THE CONDITIONS PROPOSED BY ATTORNEY MARKEY, THAT THERE BE CONTINUED COMPLIANCE WITH §325-132.1 - ADAPTIVE REUSE TO MINI STORAGE FACILITY. MS. CUNNINGHAM SECONDED THE MOTION. ALL BOARD MEMBERS VOTED IN FAVOR AND THE MOTION CARRIED.**

**FAREWELL TO ABBY GIBB:** Mr. Seiler announced this was Abby Gibb's last meeting as she has accepted employment with the York County Planning Commission. Best wishes were extended to Ms. Gibb.

**5. ADJOURNMENT**

Mr. Achenbach entertained a motion to adjourn.

**MR. SEILER MOVED TO ADJOURN THE MEETING, SECONDED BY MS. CUNNINGHAM. THE MEETING ADJOURNED AT 8: 02 PM.**

Respectfully submitted,

Secretary  
/jht