

**APPROVED  
SPRINGETTSBURY TOWNSHIP  
ZONING HEARING BOARD  
NOVEMBER 5, 2020**

**MEMBERS IN**

**ATTENDANCE:** Dale Achenbach, Chairman (via Zoom)  
David Seiler, Vice Chairman  
Chris Shuttlesworth  
Mark Bair  
Stacey Ankrum, Alternate

**NOT PRESENT:** Sande Cunningham, Secretary

**ALSO IN**

**ATTENDANCE:** John Luciani, Interim Zoning Officer  
Gavin Markey, Solicitor  
Sue Sipe, Stenographer

**1. CALL TO ORDER:**

**A. Pledge of Allegiance**

Vice Chairman Seiler called the meeting to order at 6:00 p.m. and led the Pledge of Allegiance. He introduced the members of the Board.

This meeting was conducted in person and by Zoom.

**2. ACTION ON THE MINUTES**

**A. JUNE 2, 2020**

**THE MINUTES WERE TABLED UNTIL THE NEXT MEETING.**

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

**3. OLD BUSINESS - None**

**4. NEW BUSINESS**

**A. Case ZHB-20-10 – 118 Pleasant Acres Road**

Stacey Ankrum was recused from this case due to a conflict – she is employed by Rock Commercial Real Estate.

All witnesses were sworn in.

Attorney Christopher Vedder, Morris & Vedder  
Brian Shank, AIA, Architect, Murphy & Dittenhafer Architects  
David Bode, Managing Partner, Rock Commercial Real Estate  
Regina Mitchell, York Housing Authority  
Leigh Smith, Development Coordinator, CONE

Mr. Luciani stated the York Housing Authority has negotiated a deal to repurpose the Pleasant Acres property. He noted the York County Commissioners sold off a portion of the County campus to a private company to operate their assisted living facility. Included with the inventory of the property was the assisted living facility, their maintenance buildings and also a large office area. This included a magistrate's office, the York County Conservation District, the U.S. Department of Agriculture and several other municipal facilities. A subdivision occurred this summer, which resulted in the coroner's office and the agricultural department being relocated to a different building. The property has split zoning. The office is in R-10 zoning. The applicant would like to repurpose that building and create senior apartments. They are relying on grant money to complete the project. The Board of Supervisors met with the applicant and determined senior housing would be an appropriate use for this application.

Mr. Luciani indicated he met with the applicant's attorney and Attorney Markey in regards to their request and there are two parts to the zoning use. He noted there is a provision in the zoning ordinance that allows a substitute non-conforming use as long as it is a lower classification. The other option which they have applied for is to ask for zoning relief to create multi-family units in this building.

Attorney Vedder stated if their presentation meets the general criteria for a special exception then they have satisfied their burden with moving forward with the reduced classification. They would then ask the Board to close the case and make a decision relative to determination. Att. Vedder noted if the Board determined they did not satisfy that burden they would ask for the case to be reopened and they would present their variance appeal. He added the facts and information presented for the determination process are identical to those which would be part of the variance.

Att. Markey indicated statements made are lawfully accurate by Att. Vedder. He noted it would be best to bifurcate the two requests - the first one being the interpretation deal. The second one is a use variance. The request should be treated as a special exception which is a permitted use, provided an applicant satisfies the relevant specific criteria. He noted in this case the zoning ordinance does not stipulate or provide specific criteria. The analysis that will come in front of the Board is the general criteria which includes health, safety and welfare provisions, noise, detriment to surrounding properties or otherwise whether or not it is harmonious with the surrounding area. Att. Markey also noted that consideration also weighs in favor of the applicant

since after they initially address those general criteria, the law says the burden then shifts to the applicant who will have the burden of going forward to address those criteria. The actual burden of proof to satisfy any potential denial of their request rests upon opposition or protestants to the project.

Att. Vedder stated he is representing the applicant, Creating Opportunities in Neighborhood Environments (CONE). He indicated the owner of the property is 118 Pleasant Acres Road Annex, LLC.

Att. Vedder indicated the zoning district is R-10 and the proposed use is multi-dwelling as defined in the ordinance, although senior housing is not mentioned.

Att. Vedder referred to the Exhibit Packet which was distributed to the Zoning Hearing Board members, noting the following:

Attachment 1-4 Includes the deed of transfer which identifies the owner. The photo shows what is referred to as the annex building. The site is 9.629 acres. The remaining photos show the front of the existing historical building.

Attachment 5 - The site plan is provided which shows the configuration of the property

Attachment 6 is the subdivision plan which was previously owned by the County of York.

Attachment 7 is what is called a condominium declaration – which is a condominium of large parcels of land for purposes of the manner of which the restructuring occurred and the transfers occurred at York County when they sold off the facilities.

Attachment 8 is a concept diagram. The aerial view provides an idea of how challenging the building is as a re-use.

Attachment 9 is a photo of the front of the building which is a view from the parking area which shows the two wings on each side of the building. There is also an additional structure running along Pleasant Acres Road which is where the district magistrate is located.

Att. Vedder described surrounding property stating to the north is the Pleasant Acres Nursing and Rehabilitation Center. East across Pleasant Acres Road is an area zoned R-1 which was approved for single family development. To the south is Stony Brook Manor which is a senior residential public housing development. To the west is the Pyramid Health Care.

Att. Vedder noted the current use of the building is office which is now vacant. The site is approximately 10 acres. The shape is irregular as shown on the site plan. The road frontage is along Pleasant Acres Road. The land building ratio is 14½. The topography of the site is level and gently sloping. It is not located in a flood plain. The gross building area is 36,370 sq. ft. It

was built in 1931. Total gross building area is 36,370 broken down into the first floor as 17,290 and second floor 3,384 with the northern wing and southern wing each 7500 gross sq. ft. There is a large basement.

Att. Vedder indicated the construction of the building is good with concrete walks. The frame is steel and masonry. The roof is slate. This building when originally constructed in 1931 was built in order to provide housing for people in need. Eventually it became too small and was sold. It was retrofitted for office space. The property is on the real estate tax books.

Regina Mitchell, Executive Director, York Housing Authority

Through testimony led by Att. Vedder, Ms. Mitchell explained the York Housing Authority is a low-income public housing agency that supplies public housing throughout both the city and the county.

Ms. Mitchell explained that CONE was developed by the Housing Authority with a community group to create affordable housing throughout both the city and the county.

She noted the purpose of York Housing Authority is to supply and to build low income housing both in public housing and other needs financing to create affordable housing.

Ms. Mitchell agreed that she would apply the definition of the ordinance for senior housing as a structure of senior housing as individual residents' units at which one of the primary occupants shall be a senior citizen, 55 years in age or older, and she understood that limitation has been included as the application.

Ms. Mitchell stated the York Housing Authority manages three senior housing within the county of York and one within the city of York.

Ms. Mitchell explained the process for an individual to obtain housing within a facility indicating they would first have to complete an application. She noted there is a drastic need for senior housing as well as affordable housing for seniors who are on fixed income with increasing medical costs. As an example, for Stony Brook there are currently 1000 applicants specifically requesting the Stony Brook facility.

Ms. Mitchell stated the average age of applicants / residents are for senior housing facilities averages approximately 70 years of age.

Louise Smith, Development Coordinator for CONE

Att. Vedder asked Ms. Smith to clarify or add anything to the record provided as to the north/south/east/west activity that is occurring around the property. Ms. Smith responded the

record is an accurate description as was stated. She confirmed the building was constructed in 1931. It was constructed to provide a housing for those who were not self-sufficient.

Att. Vedder asked Ms. Smith to explain what took place when the County converted its use. Ms. Smith stated as it was an alms house for a general population, which evolved into having an older population who became more in need of skilled nursing facilities. So the building itself became less in use of providing that level of care. At that time it was converted into offices since there was a need for smaller municipal branches.

Att. Vedder asked Ms. Smith to talk about the interior and the grounds of the property. Ms. Smith described it was a beautiful institutional stately building at that time. As it was vacated, there appeared a visible decline. She noted the building is still intact and the slate roof is still in decent repair.

David Bode, Managing Partner Rock Commercial Real Estate

Att. Vedder noted Exhibit N in the packet provides Mr. Bode's professional summary. He requested that Mr. Bode be established and qualified as an expert witness in commercial and industrial real estate for office uses. Att. Markey recommended this be established and the Board concurred.

Att. Vedder stated as part of the exhibit packet the market review for the 3<sup>rd</sup> quarter was included. He asked Mr. Bode to explain what is the condition of the market for office space in York County.

Mr. Bode stated in 2020 they sent out a quarterly report every three months for York and Lancaster County. He indicated the office market is looking at all classifications of office space. There is a total of 13,2 million sq. ft. in York County for all classifications. Activity on the bar chart shows the leasing activity is down 36% year-to-date, due to the effects of COVID-19. Some of the trends related to big box retailers going out of business because of the commerce and industrial market.

Mr. Bode indicated he conducted a site visit of the property. He reviewed the property to get a feel for the condition of the property and its layout. Att. Vedder asked him to provide from a marketing standpoint his perceptions from the site visit. Mr. Bode stated there are many corridors and angles in the building. He referred to areas of the building as "fingers" which are fairly narrow causing difficulty to try to get any type of configuration of the layout. He indicated office users are looking for more big open areas and that is literally impossible in this building.

In regards to the location of the facility, Mr. Bode stated access is difficult due to the location.

Att. Vedder referred to the appraisal of the property which stated this conclusion "external obsolesce the office market is over supplied in subject area. The long-term prospects for the local

regional market are limited to office demand. Office demand is very low especially in this location. Some form of residential development more likely.” He asked Mr. Bode if he was in agreement with that conclusion of the appraisal. Mr. Bode responded yes, and noted he is also a Pennsylvania state certified appraiser and acknowledged the summary.

Att. Vedder asked Mr. Bode to respond as to the permitted uses in the special exceptions he delineated earlier. Mr. Bode stated those types of uses would not be suitable for this location surrounded by residential.

Att. Vedder asked Mr. Bode to comment on traffic and traffic flows to the site. He compared the parking space uses as opposed to office use or senior housing, noting senior housing would be less traffic since typically residents would have one car, which would significantly result in less traffic.

Att. Vedder asked Mr. Bode to comment on his opinion for the proposed use as senior housing and whether or not would have a less detrimental impact on the neighborhood compared with using it as office space. Mr. Bode stated it was his experience that with these types of developments specially with senior care it would not have a detrimental impact since it does not put many other services on the municipality.

Brian Shank, AIA, Architect, Murphy & Dittenhafer Architects

Mr. Shank confirmed he was assigned a task to prepare the accreditations for the proposed units by CONE, which was to look at the drawing and conduct test fits to determine if they could fit 45-50 units in the building. He noted the drawing was prepared based off the units showing the accessibility for the first level. He indicated this is based on a concept plan.

It was noted the main floor is 17,920 sq. ft. The northern wing and southern wing is each 7500 sq. ft.

Mr. Shank stated currently they are showing 48 units 1 bedroom or studio. The square footage is for the smallest unit is approximately 619 sq. ft. The largest is approximately 854 sq. ft. Each unit will have a window

Mr. Shank noted for the exterior there will be a ramp in accordance with ADA compliance and several lower level windows may become doors.

The HVAC system will be replaced

A building code sprinkler system will be added.

There will be a percentage of handicapped accessible parking spaces.

A question was asked in regards to water usage – will the existing water service lines to this building be sufficient or will they need to upgrade. Mr. Bode stated that was unknown at this time, however, as the project moves forward, they will determine mechanical, electrical and plumbing needs.

Ray Markey, BCO for the Township, Co- Compliance Supervisor, asked if an asbestos survey has been done to the building. Mr. Shank stated not at this time, but it would be done before construction commences.

A question was asked if they propose to change any of the windows in the individual units to emergency egress windows. Mr. Shank stated they will evaluate that issue and determine replacement windows.

Louise Smith, Development Coordinator, Cone

Ms. Smith provided information on the layout of the units, noting they will be one bedroom or studio units. She noted there may be a possibility of several two bedroom units but that has not yet been determined since this is conceptual at this time. They are looking at different options for affordable housing.

Ms. Smith stated they are proposing to make this not only a low-income housing tax credit development but a store tax credits. With the store tax credits they will be limited with what kind of interior changes are made. They propose no exterior changes other than the handicapped accessible ramp. With the interior changes they are not looking to close off courtyards. The corridors must remain the same. There is an elevator to all three floors.

In regards to questions about handicapped accessibility, Ms. Smith the units must adhere to the standard building code requirements for renters with disabilities.

A question was asked regarding PFHA rules and regulations for building requirements as well as those of a historic nature. Ms. Smith stated they are hoping to obtain county support funds from The York County Planning Commission. They are anticipating to move forward with the application for tax credits in February 2021 but will likely not receive them until the end of 2021. She noted it takes 6-9 months to get to a closing. Ms. Smith stated if everything goes according to plan construction would not begin until 2024.

A question was asked as to what will happen to the building in the meantime, as it relates to the continuing degradation of the building. Ms. Smith stated the current owner will remain a partner in the project and that will be a concern to keep it in decent shape for as long as possible. The owner will be required to maintain it to township standards.

David Schaumann Deputy Director of the York Housing Authority

Mr. Schaumann indicated they also manage the Stony Brooke property. He referred to the parking, noting the parking level needed for seniors is much less, as evidenced by the number of cars in their parking lot and the number of people. He indicated even with families visiting the impact is very little. It was his opinion the proposal for the senior housing is very much needed in the community

Att. Vedder provided a summary of the review, noting the ordinance provides a non-conforming use of a building for a plan to change the use of equal or more restrictive classification. They were able to determine the general special exception criteria as Att. Markey discussed which was purpose, compatibility, suitability, serviceability, accessibility, harmony and other reasonable conditions. He mentioned they offered in their application the use of the language from the ordinance defining senior living, that the dwelling multi-family would be used for senior living. He pointed out in the purpose section of the language of the comprehensive plan refers to the preservation of estates and architecturally attractive building facades and landscaping to exclude activities of commercial and industrial nature. It was the applicant's opinion this project fits into that definition of the comprehensive plan.

Att. Vedder stated their compatibility as it relates to the following:

- The land – the current footprint will remain unchanged
- Stormwater management is already in place
- Senior housing will not create any additional noise or hazards
- The issue of traffic congestion was discussed relative to comments from staff review and the exhibit provided.
- Illumination - Occupants will have full access to natural light.
- Circulation – plenty of parking as evidenced in the application
- Access to the front and side through the curbed area and driveway
- Suitability of this property demonstrated by testimony of the occupant.
- Putting in the units will be fully in compliance with the regulations of the Township and also for planning purposes through HUD or PFHA
- Serviceability for sanitary stormwater storm sewers, water, fire, police public facilities as addressed. Do not know if additional water lines will be needed at this time.
- No impact on public schools

Att. Vedder asked after the Board requests to hear additional testimony or otherwise that the case be closed and the case be deliberated on a determination and a decision rendered in favor of the applicant.

Att. Markey indicated the record will reflect this.

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

Don Bishop, Member Board of Supervisors



Mr. Bishop stated when this case came before the Board of Supervisors they heard from the attorney although not in as much detail and the Board asked him to relay the information that the Board is generally in support of the objectives of this applicant and think this is a reasonable use for the property. The only issue that came up to the Board of Supervisors which they did not feel they had sufficient information to determine is the question of the intensity of this use. He suggested that the Zoning Hearing Board take that into consideration.

Mr. Bishop indicated he had a personal concern about the maintenance of the property currently. The concern was exacerbated by the discussion that this project will not get started until 2024. He noted it is his expectation that the owner of the property will be able to maintain it over the coming years as this moves forward, especially concerning the exterior maintenance.

Mr. Bishop indicated his second concern is more of an issue that the Board of Supervisors needs to address with the County, to assure that the remainder of the property is up to standards maintained by Springettsbury Township.

Att. Markey commented what Attorney Vedder summarized in his ending comments are the provisions located in Section 325-190. F.2 which are the general criteria. Att. Markey reiterated there are two parts to the special exception. The first part goes away as those specific criteria are announced. Necessity focuses on the remaining general criteria as outlined and itemized by Att. Vedder, and the evidence in testimony have offered sufficient legal grounds for approval in this matter. There was no objection in recalling the burden of proof placed upon objectors to prove by substantial evidence there is going to be a substantial injury if this is approved. There has been no objection in that regard. Liberty has been taken to prepare a potential motion on the first issue that is in front of the Board this evening. That is the interpretation appeal and, in that regard, he believed this would be a motion the Board may be willing to enter with respect to the interpretation appeal.

**MR. SEILER MOVED IN THE CASE OF ZONING HEARING BOARD-20-10 THAT THE APPLICANT, CREATING OPPORTUNITIES IN NEIGHBORHOOD ENVIRONMENTS, INCORPORATED (CONE), HAS SATISFIED THE CRITERIA OF SECTION 325-193.E OF THE ZONING ORDINANCE TO CHANGE THE USE OF THE PROPERTY AT 118 PLEASANT ACRES ROAD, SPRINGETTSBURY TOWNSHIP, YORK COUNTY, PENNSYLVANIA IN THE R-10 MEDIUM LOT SINGLE FAMILY RESIDENTIAL DISTRICT FROM ITS PRESENT USE OF OFFICE, GENERAL , A NONCONFORMING USE, TO SENIOR HOUSING, A DIFFERENT NON-CONFORMING USE SINCE THE PROPOSED USE IS OF EQUAL OR MORE RESTRICTIVE CLASSIFICATION SUBJECT, HOWEVER, THE DWELLING MULTI-FAMILY USE SHALL BE LIMITED TO SENIOR HOUSING AS DEFINED IN THE ZONING ORDINANCE AND ACCESSORY COMMON ROOMS AND STORAGE FOR USE BY THE OCCUPANTS AND ADMINISTRATIVE MANAGEMENT OFFICE. SECONDED BY MR. SHUTTLEWORTH. MOTION UNANIMOUSLY PASSED.**

It was noted in regards to concerns about maintaining the property in the interim, Att. Markey stated that is a responsibility of the property owner and the Zoning Hearing Board cannot mandate the upkeep of the building.

Mr. Luciani stated this would fall under the property maintenance code, which is managed by Mr. Ray Markey. Mr. Markey confirmed they will keep an observation on the property.

**B. Case ZHB-20-11 – 624 Woodside Road**

Witnesses were sworn in.

Attorney Mickey Thompson,

Keith Crawmer, General Manager of Construction, Burkentine Builders

Mr. Luciani indicated First Capital Engineering received an application for a stormwater review for the plan. He noted the Township has a steep slope overlay and when the slope of a piece of ground exceeds 15% it requires adding the maximum amount of impervious. He indicated this lot was created in the late 1980's. The total impervious area that can be created on a steep slope lot is only 10%, approximately 1000 sq. ft of impervious area. The house is approximately 1400 sq. ft. with an additional 2000 sq. ft. for the driveway. Mr. Luciani stated trying to meet the maximum impervious is challenging for this lot. The purpose of the steep slope ordinance is to make sure property owners are not building lots that will erode or otherwise cause issues downstream. This is one of the few lots in this development that has not been developed.

Att. Thompson referenced Mr. Luciani's letter of October 6, 2020 in which he stated "the steep slope overlay limits the impervious coverage to 10% which requiring a variance making the lot virtually unbuildable without a variance." He noted his burden was to prove the applicant suffers an unnecessary hardship. He noted the property is owned by Burkentine & Sons, Inc. The property is located in the R-10 zoning district and if it was not affected by steep slope overlay, they would be permitted to have a maximum impervious coverage of 35%. Because it is in the steep slope overlay they are limited to 10%. The property is .52 acres which 22,751 sq. ft. Subtracting the driveway from the maximum impervious coverage they are only left with 363 sq. ft.

Through testimony conducted by Att. Thompson, Mr. Crawmer confirmed he has never built a home on 363 sq.ft. He acknowledged he has been to the property. Mr. Crawmer stated he had a plan prepared by Hanover Land Services which demonstrates the site plan for the property. This plan was submitted to the Zoning Hearing Board for presentation.

Mr. Crawmer stated as the plan shows, access is granted through a switchback driveway to allow for access up to the site. There are limitations on the slope which presents a dangerous condition when a driver would enter or leave the building with the slope greater than 10%.

Mr. Crawmer referred to the aerial view of the property showing Woodside Road. He noted the red dot in the center of the photo shows the location of the property. He confirmed there are no lots available for development in this area. He described the area which demonstrates the slope of the property.

Mr. Crawmer stated the actual footprint of the house is 1387 sq. ft. He noted if they were able to bring forth a perpendicular driveway to Woodside Road it would that reduce the amount of impervious coverage below 10%. He noted the amount of deviation of what is permitted is 10% and what is proposed 14% is 4½%.

Mr. Crawmer confirmed this property does not have any other type of setback relief in terms front side or rear yards. There is no off-street parking.

Mr. Crawmer stated this property suffers from unique circumstances which surrounding properties already developed do not have.

Mr. Crawmer confirmed in his opinion as a land developer and general contractor of 20 years there was no possible way to build this property in conformance with the zoning ordinance with the 10% maximum impervious coverage.

He noted the issue was not created but is a natural occurring condition. He stated it will not alter the essential character of the neighborhood but rather will conform to the neighborhood and it is the minimum amount of deviation that can be done to place the home on the property.

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

Elizabeth Thelen (sworn in)

Mrs. Thelen questioned pertaining to neighbors that live on the lower side of the street, is there concern about water runoff from this property.

Mr. Luciani stated the developer hired an engineer to place in the front of the home a 10 ft. by 50 ft. x 3 ft. stone pit. For any development in the Township in excess of a 1000 sq. ft. the developer is required to fill out an operations and maintenance agreement and the intent of the stone bed is during a rainfall event the water will run into that bed. He noted builders put a lot of effort into capturing the water and infiltrating it into the ground. They are obligated to capture all the runoff from their roof, driveway and put it back into the ground.

Att. Markey stated this is a dimensional variance request as both the applicant and the engineer referenced. He noted a dimensional variance combined with a permitted use creates a reduced burden of proof to obtain the variance. He recommended from a legal perspective it would be appropriate to approve this variance.

**MR. BAIR MOVED IN THE CASE OF ZHB-20-11 THAT THE VARIANCE REQUEST FOR 624 WOODSIDE ROAD BE APPROVED. SECONDED BY MR. SHUTTLESWORTH. MOTION UNANIMOUSLY PASSED.**

**5. ADJOURNMENT**

**VICE CHAIRMAN SEILER ADJOURNED THE MEETING AT 8:04 P.M.**

Respectfully submitted,

Secretary  
/ses