

**SPRINGETTSBURY TOWNSHIP
ZONING HEARING BOARD
NOVEMBER 6, 2014**

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
John Schmitt
Michael Papa
Sande Cunningham
Kevin Hevner
David Seiler

ALSO IN

ATTENDANCE: Gavin Markey, ZHB Solicitor
Trisha Lang, Director of Community Development
Jean Abrecht, Stenographer

NOT PRESENT: James Deitch

1. CALL TO ORDER:

Chairman Achenbach called the meeting to order at 6:00 p.m. He introduced the members of the Board. It was noted that Mr. Hevner will be filling in as a voting member for this meeting.

Chairman Achenbach led the Pledge of Allegiance.

2. ACTION ON THE MINUTES:

A. October 2, 2014

MOTION MADE BY MR. PAPA, SECONDED BY MR. SEILER TO APPROVE THE MINUTES OF OCTOBER 2, 2014 AS PRESENTED. MOTION UNANIMOUSLY CARRIED.

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

3. OLD BUSINESS - NONE

4. NEW BUSINESS

A. Case Z-14-09 Dave & Nikki Shaffer

Dave Shaffer
Robin Ness – Fox Pools

All witnesses were sworn in.

General Case Summary:

Article XXVII, Accessory Uses

325-141. Swimming pools.

- A. Location and setback. The swimming pool shall be located within the rear yard of the dwelling and shall observe the side yard setback for the appropriate district. The setback from the rear property line shall be a minimum of 10 feet for all districts. The setback shall include the deck, pad or apron around the pool.

Article II, Definitions.

325-5 Definition of terms.

Yard, Front – An open, unoccupied space on the same lot with the building, between the front line of the building and the street, projected to the side lines of the lot. Each yard that abuts a street on a corner lot shall be considered a front yard.

Comments: The applicant is requesting a variance to install an in-ground pool on their property. This property is on a lot that would be considered to have three frontages (Mountain Laurel Lane, Harvest Hill Drive and Witmer Road). The definition of “front yard” in the zoning ordinance states that each yard that abuts a street on a corner shall be considered a front yard. In this particular case, they would be considered to have three front yards. This would prohibit the property owner from installing a pool anywhere on their property, as the requirements for pool location state that a pool shall be located within the rear yard of the dwelling. There is no rear yard, in this case.

The applicant has included photos with their submission that outline the proposed location of the pool. You will see that the proposed pool is located to the rear of the dwelling, which would be the rear yard if the property were not surrounded by street frontage. There is an existing fence around the perimeter of the yard.

The location of the property is at 631 Mountain Laurel Lane. Mr. Ness stated the applicant proposes to install a pool in the back yard. The property has three front yards. Photos and drawings were submitted. Mr. Ness noted the pool would be installed behind the house. It meets the setbacks required by the Township and the yard is already fenced. This is a 4 ft. fence which comes off the house and goes along Harvest Hill Road across Witmer Road, In the rear there is a 6 ft. privacy fence which is illustrated by the photograph.

Ms. Lang had nothing to add.

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

Attorney Markey stated that in the past occasional multiple front yards have been handled as a hardship for purposes of granting a variance. He complimented the applicant on the comprehensive application submitted which provides a clear vision of their intentions.

MS. CUNNINGHAM MOVED IN THE CASE OF Z-14-09 TO APPROVE THE VARIANCE FOR INSTALLATION OF THE SWIMMING POOL IN THE REAR YARD OF THE DWELLING AS DEPICTED IN THEIR SUBMISSION. SECONDED BY MR. SCHMITT. MOTION UNANIMOUSLY CARRIED.

A. Case Z-14-10 York Christian Church

Attorney Michael Grab

Rick Jackson, ELA Group

Hal Schwartz, Elder York Christian Church

All witnesses were sworn in.

General Case Summary:

Article XXV, Off-Street Parking, Loading and Unloading
325-116. Design Standards.

C. Parking spaces may be located on a lot other than that containing the principal use as a special exception.

Comments: This variance request was presented this date in conjunction with a land development plan (York Christian Church Addition, LD-14-05) for a proposed addition to York Christian Church. The church expansion will enlarge the meeting room area to house 500 seats. Due to this expansion, they are required to increase their parking to allow for 125 spaces. They are unable to locate all of these spaces directly on their property, so they have come to an agreement with the developer of the adjacent lot to construct 40 of these spaces on their property. These spaces will be solely for the use of the church and the appropriate Easement and Maintenance Agreement has been executed by both parties (copies are attached for review).

The adjacent lot also has a proposed land development plan (Pleasant Valley Road Tract, LD-14-04) which proposes to develop the parcel located at the NW corner of Pleasant Valley/Mt. Zion Roads. This development will house a mix of retail and multi-family residential buildings.

It should be noted that although the zoning ordinance that a special exception be requested for off-site parking (325-116.C), there are no specific criteria that are associated with the approval of such request. The township has both land development plans currently under review and understands the applicants need to use off-site spaces.

Staff Questions/Concerns: During discussion with the Planning Commission, concerns were raised with regard to a second or emergency access to and through this proposed parking lot to the church property. The applicant agreed to investigate whether such a feature could be added. Depending on how or if a connection to the Pleasant Valley Road project is made, the design which is presented at this time might be modified in a manner that would change the Board's perspective on the request.

In addition, it is noted that the proposed parking facility is necessary to provide the minimum number of spaces necessary for the church expansion. As a result, the church must FOREVER retain control of the use of ALL of these spaces. Should the management of the adjacent proposed development change over the years and/or the property be sold for re-development or if the Pleasant Valley Road project never moves forward, this parking lot MUST still be constructed and MUST remain in control of the Church. Please note that the land occupied by the parking lot can NOT ever be subdivided from the Pleasant Valley Road parcel. The development of the tract is dependent on the total acreage of the site. Therefore the acreage cannot be reduced unless dwelling units are eliminated. Allowing the required parking to be located on a separate parcel under separate ownership will require that the properties be linked in perpetuity. It would be appropriate to establish one or more conditions that ensure that they can never be separated.

Attorney Grab stated the applicant proposes to expand its existing church location and seating of the church, which will require additional parking. Due to restrictions on the current lot where the facility is located, it will not be possible to accommodate the required parking on that lot. Attorney Grab stated they have an agreement with the adjoining property owner, Pleasant Valley Road, LLC, to place 40 parking spaces on the adjoining lot. The additional parking offset is permitted by special exception pursuant to §325-116.C of the Zoning Ordinance.

Mr. Jackson stated his company prepared the drawings submitted as part of the application and prepared the exhibits consisting of a 5 page document, noted as Applicant's Exhibit 1 which he reviewed. Page 1 –the existing conditions map of the property which shows the existing church and its parking lot access drive and some of the site constraints that limit the ability to meet the full parking requirement on

the site. The church has been located here since 2007. Prior to that site they were located immediately next door at the adjacent property for 20 years.

Mr. Jackson noted the first page of the exhibit shows the existing building which includes a sanctuary for 233 parishioners, with 60 parking spaces. This plan shows the steep slopes around the property especially along the front of the property and into the back of the property which limits the ability to expand parking towards the rear. There is also a stream corridor that runs through the property on the western portion of the site. The drainage corridor includes some wetlands which make it difficult to add parking towards the western and/or northwestern corner of the property. In addition, the site is densely wooded and along the right hand side of the property heading towards the street is a gas line.

Mr. Jackson indicated the second sheet shows what can reasonably be placed on the property given all the site conditions just identified. They are proposing to increase the number of parking available on the site to a total of 85 parking spaces, including a drop off at the back of the church as illustrated on the exhibit. Showing in the corner of the "L" shape building is the expansion of the church with a portico that will allow for drop off for parishioners. The plan shows they are extending the parking area towards the north as far as possible.

Mr. Jackson noted with the expansion of the church to 500 seats they would now be required to have 125 parking spaces. They are accommodating 85 on the property, leaving a deficit of 40 spaces which they propose to provide on the adjoining property formerly the church's property but is now being considered for development by the Pleasant Valley Road partnership. It was reiterated that §325-116.C of the Ordinance allows parking on a different lot than where the principal use is located.

Mr. Jackson stated that Sheet 3 shows the proposed development of the adjoining tract to the east and the development that is proposed by Pleasant Valley Road partners which would be located at the corner of Pleasant Valley Road and Mt. Zion Road. They are proposing under a separate land development plan submitted to the Township, a commercial or retail facility on the corner of the property and then four apartment buildings around a centrally located parking lot. The parking lot to the far west of the property would be the overflow parking or offsite parking for the church. The parking lot on the second page of the exhibit is the same as the parking lot shown on the third page of the exhibit.

It was noted the Pleasant Valley Road tract is currently pending before the Township with a development plan. The church has also submitted a land development for their proposed expansion.

Mr. Jackson stated the church is intending to continue to use its existing access drive because of the steep nature of the slopes and the drainage way, gas line, etc. They will also continue to use the access that currently exists to the west of the church sweeping back into the campus and then either through the proposed parking lot to the north or through the access drive underneath the portico to the 40 additional parking spaces proposed. He further noted there is no paved access proposed to be provided from the Pleasant Valley Road development to this additional parking and they have done everything they can to keep this parking separate and only for the use of the church.

Mr. Jackson referred to page 4 which is the final land development plan with the emergency access exhibit. In the course of going through the review process with Township Staff, they have identified a concern related to a requirement in the subdivision and land development Ordinance that requires a second means of access to be provided to the church property. The church was served by the large parking in the front of the property which has also been accessed from Pleasant Valley Road by an access drive that intersected with Pleasant Valley Road and came up to the parking lot. On the west side of the property there is a small garage structure that still exists on this property. What is shown is until the actual development occurs on Pleasant Valley Road, what would temporarily be provided is the second means of access. That would be the temporary condition until full development of the apartment and retail complex occurs.

Mr. Jackson referred to the fifth drawing. In comparing the site plan with the engineering drawing, the retail located at the corner of the site in the four apartment buildings and the parking lot would be solely for the purpose of meeting the church's parking requirement. In this case, they have shown a modification to the illustrative plan. To address the Township's concern, they are showing what would be done to provide an emergency access coming up the north side of the western most apartment building. This would provide an emergency access or second means of access to the church's site to the parking lot and to their campus. What they propose to do in the land development plan for Pleasant Valley would be to record an easement that would overlay this parking lot so that access would come up from Pleasant Valley across the access drive that connects to Pleasant Valley Road. Fire trucks would be able to make the first left into the parking lot, take the right and then be able to access this emergency access. Their analysis of the turning movements of the fire truck determined it can get through. The emergency access would be a stabilized earth surface construction, which would discourage this access as being used on a routine basis.

The applicant currently has an easement agreement with the adjoining property owners Pleasant Valley Road LLC. A copy of the easement was submitted with the application. An additional copy was introduced as Applicant's Exhibit 2. Mr. Jackson confirmed it was the easement agreement to allow for the utilization of the 40 parking spaces on the Pleasant Valley Road tract. It also provides for any required access and maintenance from the church tract, but does not cover the proposed access referenced as the emergency access, since it was submitted as a draft document for the subdivision and land development plans to the Township prior to the second mode of access being identified as a requirement. Consequently, they would amend this document to address the additional easement requirements for the second means of access.

Attorney Grab noted that Pleasant Valley Road LLC has indicated their willingness to amend this document to provide for those emergency access roads. It also provides that use and means of access in perpetuity. This will be recorded once it is in its final form and be binding on the heir's successors and the signatures of both the owners of those tracts.

Attorney Grab reviewed the general requirements for special exceptions in the Ordinance and Mr. Jackson confirmed the proposal complies with those requirements.

It was recommended that the applicant add additional language for the addition of maintenance to the emergency access. Mr. Jackson stated this will be done by Pleasant Valley as part of their routine maintenance. This would be subject for review by the Township Solicitor as part of the land development process.

Ms. Lang noted two concerns about the recorded easement agreement, referring to Page 2, Item 2 which says the easement is primarily available for the church but shall also be available for the development. Further clarification is needed to define that it is solely for the use of the church except for this access easement. The other concern was on Page 3, Item 6 which allows the agreement to be modified or terminated. It was recommended that the Township become a recipient of any proposed changes and notified if the agreement is modified at any time.

Attorney Grab stated the applicant anticipates making revisions and would be agreeable to have a condition as part of the land development process that the applicant revise and amend the easement agreement in conformity with the Township requirements as approved by the Township Solicitor and then work with Staff to assure those items are addressed satisfactorily.

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

Mr. Charles Stuhre suggested that signage be added since the parking lot will be closed to the apartment building.

Attorney Markey noted this is a special exception so it is a permitted use and permitted subject to satisfying the first aspect of a special exception which is the specific criteria. He noted in this case the Ordinance does not have specific criteria. The only criteria applicable to the consideration are called general criteria which the attorney for the applicant reviewed in detail. Attorney Markey stated he reviewed the October 2, 2014 easement and maintenance agreement. He noted it conveys the permanency of the parking area being tied to the church expansion. He suggested two conditions be imposed on the approval.

First would be to satisfy the zoning officer's concerns regarding the parking lot being part and parcel forever with respect to the church use and expansion. He suggested the condition be placed on the approval that the special exception will lapse in the event the applicant shall no longer have access to and use of the 40 parking spaces as shown on the exhibits of the application submitted. And the church expansion shall be a violation of the zoning ordinance should those parking spaces be lost.

Second - the easement and maintenance agreement which was currently dated October 2, 2014 shall be approved by the township solicitor and recorded prior to any construction of the applicant under its approved land development plans, noting specifically the amendments with exhibits to that easement agreement which will take place and the additional comments as noted by the zoning and permit officer.

Attorney Grab stated the applicant would have no objection to those conditions.

MOTION MADE BY MR. HEVNER IN THE CASE Z-14-10 THAT THE SPECIAL EXCEPTION BE GRANTED WITH THE CONDITIONS AS STATED BY THE ATTORNEY MARKEY.

- **CONDITION THAT THE SPECIAL EXCEPTION SHALL LAPSE IN THE EVENT THE APPLICANT SHALL NO LONGER HAVE ACCESS TO AND USE OF THE 40 PARKING SPACES AS SHOWN ON THE EXHIBITS OF THE APPLICATION SUBMITTED, AND THE CHURCH EXPANSION SHALL BE A VIOLATION OF THE ZONING ORDINANCE SHOULD THOSE PARKING SPACES BE LOST.**
- **THE EASEMENT AND MAINTENANCE AGREEMENT WHICH WAS CURRENTLY DATED OCTOBER 2, 2014 SHALL BE APPROVED BY THE TOWNSHIP SOLICITOR AND RECORDED PRIOR TO ANY CONSTRUCTION OF THE APPLICANT UNDER ITS APPROVED LAND DEVELOPMENT PLANS, NOTING SPECIFICALLY THE AMENDMENTS WITH EXHIBITS TO THAT EASEMENT AGREEMENT WHICH WILL TAKE PLACE, AND THE ADDITIONAL COMMENTS AS NOTED BY THE ZONING AND PERMIT OFFICER.**

SECONDED BY MR. SCHMITT. MOTION UNANIMOUSLY PASSED.

ADJOURNMENT

Chairman Achenbach adjourned the meeting at 6:45 PM.

Respectfully submitted,

Secretary

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