

APPROVED

**SPRINGETTSBURY TOWNSHIP
ZONING HEARING BOARD
FEBRUARY 2, 2012**

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
Sande Cunningham

ALSO IN

ATTENDANCE: Gavin Markey, ZHB Solicitor
Jim Baugh, Director of Community Development
Sue Sipe, Stenographer

NOT PRESENT: James Deitch
Michael Papa

1. CALL TO ORDER:

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

B. 2012 Zoning Hearing Board Reorganization of Officers

MOTION MADE BY MS. CUNNINGHAM TO ACCEPT THE FOLLOWING SLATE OF OFFICERS FOR 2012:

**CHAIRMAN – DALE ACHENBACH
VICE CHAIRMAN – JAMES DEITCH
SECRETARY – JOHN SCHMITT**

MR. SCHMITT SECONDED. MOTION UNANIMOUSLY CARRIED.

2. ACTION ON THE MINUTES:

A. December 1, 2011

MOTION MADE BY MR. SCHMITT, SECONDED BY MS. CUNNINGHAM TO APPROVE THE MINUTES OF DECEMBER 1, 2011 AS PRESENTED. MOTION UNANIMOUSLY CARRIED.

Chairman Achenbach asked Mr. Baugh whether or not all cases had been properly advertised. He responded that all notifications had been made.

Chairman Achenbach noted the applicants agreed to the expedited process for presentation.

3. OLD BUSINESS - NONE

4. NEW BUSINESS

A. Case Z-12-01 Danielle Hoet

Danielle Hoet

All witnesses were sworn in.

General Case Summary:

325-20 Area and bulk requirements.

Side yard setback = 15 feet

Comments: The applicant is proposing to construct a stairway to provide a second means of egress in/out of the basement of the above mentioned property. The dwelling currently sits at a side setback of 15 feet. The applicant is proposing to construct the stairway at 10' 10 7/8" from the side property line.

Recommendations: If the findings of Fact and Conclusions of Law meet with the approval of the Board, staff would support the applicant's request.

Ms. Hoet indicated she is representing Chip Kaufman and Lori Wiltshire who reside at 3632 Regency Lane. The applicant wishes to construct an area-way leading to their existing basement. A variance is needed since this would encroach on the side setback which should be 15 ft. The existing house is on the 15 ft. line and the applicant would need to excavate 5 feet into that setback.

Mr. Baugh indicated no opposition to the request.

No questions from the Board.

No comments from Attorney Markey.

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

MS. CUNNINGHAM MOVED IN THE CASE OF Z-12-01 DANIELLE HOET TO APPROVE THE VARIANCE FOR THE SIDE YARD SETBACK OF 5 FT. SECONDED BY MR. SCHMITT. MOTION UNANIMOUSLY CARRIED.

B. Case Z-12-02 Boris Fridman

Witness sworn in.

Boris Fridman – 585 Quaker Drive

General Case Summary:

325-121 Fences.

A. Fences may be erected, altered and maintained within the yards, provided any such fence or wall shall not exceed four feet in height.

D. A fence may be erected higher than four feet in the following instances:

1. A fence 6 feet in height is permitted on the rear and/or side property line of residential parcels.

Comments: The applicant is proposing to install a 6 foot fence within the front yard of the above mentioned property. The property in question is located on a corner lot, for which the definition in the

zoning ordinance provides that each yard that abuts a street on a corner lot shall be considered a front yard. Fences are not permitted to exceed 4 feet high in a front yard.

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. Fridman stated he is requesting a variance to install a 6 foot fence around the back yard of his property. The reason is due to his property being on a corner the Ordinance stipulates this indicates two front yards. Also the topography of the lot is sloped which results in a privacy issue especially with a school bus stop at the corner. He is requesting to install the fence on the side of Cortleigh Drive in the back of the house. Mr. Fridman provided a drawing showing the perimeter of the fence. This would be a solid fence.

It was determined that the site distance is no problem.

Mr. Baugh indicated he had no problem with the request. The drawing is adequate and due to the consideration that the property results in two front yards, it is considered a hardship in this case.

Chairman Achenbach asked if there was anyone in attendance who wished to speak for or against the applicant. Hearing none he called for a motion.

Attorney Markey had no comment.

MR. SCHMITT MOVED IN THE CASE OF Z-12-02 BORIS FRIDMAN TO APPROVE THE VARIANCE FROM A FOUR TO SIX FOOT FENCE SECONDED BY MS. CUNNINGHAM. MOTION UNANIMOUSLY CARRIED.

C. Case Z-12-07 Adam and Jill Gilden

Jill Gilden

All witnesses were sworn in.

General Case Summary:

325-25-142

A. Sheds and greenhouses shall not be erected except to the rear of a dwelling.

Comments: The applicant is proposing to install a shed in the side yard of their property. The property in question is located on a sloped lot. Installing a shed in the rear of the dwelling would cause difficulty with using the equipment stored in it.

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.

Ms. Gilden indicated they are requesting a variance to the ordinance which indicates sheds should not be erected except to the rear of the house. She noted the location of the property is 3650 Springetts Drive. They are seeking permission to build a shed on the side of the house since the topography of their property would not allow the placement of the shed in the rear of the house. Due to the slope they would not be able to get the equipment to be placed in the shed back up to the front of the property. She noted they intend to build a well constructed shed and the house would be repainted to coordinate with the color of the shed. She presented a letter (Exhibit A-1) from their neighbor, Dr. David and Lynn Idle stating they are not opposed to the shed being located at the side of the house.

It was suggested that a condition be added to state that the shed and the home be the same color when the shed is constructed. It was noted this condition would prevail for any subsequent owner of the property.

Attorney Markey stated it was agreeable to establish that condition which is aesthetic in nature. If there is no appeal of that condition it would become binding.

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

Mr. Baugh indicated he was in agreement with the request and the condition due to the topography of the property and the neighbor's support of the request.

MS. CUNNINGHAM MOVED IN THE CASE OF Z-12-07 TO APPROVE THE REQUEST OF THE APPLICANT TO ERECT THE SHED IN THE SIDE YARD WITH A CONDITON THAT THE SHED AND THE HOME BE THE SAME COLOR. SECONDED BY MR. SCHMITT. MOTION UNANIMOUSLY CARRIED.

D. Case Z-12-06 Brockway Standard, Inc.

Attorney Jeff Lobach
Robert Boyd
Mike Hutchinson
Brad Peters, Site Design

All witnesses were sworn in.

General Case Summary:

Request for Interpretation:

325-5.D. Definition of Terms.

Accessory Use- A use customarily incidental and subordinate to the principal use or the main building and located on the same lot with such principal use or main building.

Principal Use- The main or primary use of property or structure measured in terms of the area occupied by such use.

Warehousing and Distribution- A building, or portion thereof, used or intended to be used primarily for the storage of goods and/or materials that are to be sold at retail or wholesale from other premises or wholesale from the same premises; however, nothing in this definition is meant to exclude purely incidental retail sales in warehouses.

Special Exception:

325-167. Business and industrial park standards.

A. Purpose: to promote the orderly development of land within the industrial land use districts of the Township, consisting of land organized and laid out in accordance with an overall plan for a community of industries, including the servicing of those industries. Architecturally attractive building facades and landscaping are a key component of an industrial park.

B. Permitted uses. All uses which are permitted in the underlying zoning (B-I or G-I in Article XVI) for the industrial land use districts of the Township.

C. Area and bulk regulations.

(1) Lot area. Individual parcels of not less than three acres shall be provided.

(2) Lot width. The industrial park shall have a minimum of 200 feet of public street frontage. There shall be no minimum public street frontage for individual parcels within the park, although an adequate right-of-way of access shall be provided for each parcel.

(3) Coverage. The principal and accessory buildings, storage yards, off-street parking lots, loading and unloading docks shall not project into the required yard spaces as set forth below. All open space other than parking and loading spaces and access drives shall be covered with a vegetative material.

(4) Yards. Yards of the following minimum setbacks shall be provided; however, in no case shall the front, side or rear yard depths be less than 60% of the legal right-of-way of the street or streets on which the lot abuts:

(a) Front yard setback: 50 feet.

- (b) Side yard setback: 15 feet.
- (c) Rear yard setback: 30 feet.
- (d) Buffer yard. Landscaping and buffer yards shall be provided in accordance with the Subdivision and Land Development Ordinance (Chapter 289). Such buffer yards may be coterminous with any required yard in the district, and in case of conflict the larger yard requirements shall apply.

(5) Height. No building shall be erected to a height in excess of 50 feet; provided, however, that this height may be increased one foot for each additional foot that the width of each yard exceeds the minimum required.

(6) Internal street system. All internal streets providing access to parcels within the park shall be a minimum of 20 feet in width, constructed to Township specifications. These streets shall remain private and not offered for adoption by the Township. Each parcel shall have a minimum of fifty-foot frontage upon such a street. There shall be no limit upon the length of a private cul-de-sac street.

(7) Site access. The industrial park shall have a minimum of one street access to a minor arterial or collector street. A second access may be required by the Township Planning Commission and board of Supervisors. The determination for a second access shall depend upon the number of parcels within an industrial park, potential traffic volume, proposed internal street system and existing traffic volume and condition of the public street used for access.

(8) Utilities. All parcels shall be served by public water and sanitary sewer. All utilities shall be installed underground.

Variance:

325-193.B. Nonconforming uses and structures.

B. Extensions. A nonconforming use may be expanded to a distance no greater than 150 feet in any direction from the existing nonconforming use or to an area equal to no more than 25% of existing nonconforming use, whichever is the lesser, or in the case of a building, the expansion shall be limited to an area equal to 50% of the existing total usable floor area of the building devoted to the nonconforming use, but excluding basement, cellars, attics, closets, hallways, stairways, service rooms, bathrooms, utility rooms, and unheated areas such as enclosed porches. Nonconforming uses created by variance shall not be permitted to expand.

Comments: The applicant's current manufacturing facility consists of 97,000 SF and they wish to add 60,000 SF of primarily warehousing space. The current use is technically non-conforming. Although it is a manufacturing plant, containers are not specified as an allowed manufacturing use. A land development plan including a somewhat similar expansion was approved several years ago when the use was allowed. However, the plan is much older than five years and is therefore no longer valid.

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.

Attorney Lobach stated the property is located at 599 Davies Drive and is used for manufacturer of steel cans. It has been in existence for 20 years. The lot is 12.49 acres in the Business-Industrial Zoning District. The first exhibit is a page from the 1989 land development initially submitted for this project which contemplated an expansion doubling the size of the plant. Exhibit #3 is a current aerial photograph, showing only the first phase constructed within the 5 years covered by the land development plan. Currently on the site is a facility of 97,212 sq. ft. The applicant is using off site warehousing to handle its warehousing needs.

Attorney Lobach indicated that Exhibit #2 is the special exception which was granted for Meadowlands Business Park in 1991.

He noted Exhibit # 4 outlines the applicant's proposed plans for the site, which is a 60,000 sq. ft. addition to be used exclusively for warehouse space. No manufacturing is contemplated. The applicant shows three grounds for relief. A special exception based on the 1991 special exception for this park and the

fact that the property under the current Ordinance would qualify for special exception as a business park and a variance. The accessory use interpretation request covers the manufacture of cans. A separate use is also defined in the Ordinance as warehouse as one that is customarily incidental and subordinate to the principal use which in this case is the manufacturing use in the main building located on the same lot. Warehousing is incidental to manufacturing, which they interpret as an accessory use. Attorney Lobach stated they believe the Township agrees with that interpretation.

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

Attorney Markey indicated that he reviewed the application focusing on the accessory use presentation. He supported Mr. Lobach's presentation which provided detail as support for the Board to make a determination and finding that the proposing warehousing is an accessory use to the manufacturing operation.

Attorney Lobach informed the Board that in the B-I zone where the use is conducted, manufacturing of cans is not a permitted use. However, across the street from the G-I zone it is permitted. He noted this has been in operation well before the current Ordinance was enacted as a legal nonconforming use. The Ordinance limits an accessory use to 50% of the total building in which the use is conducted. In this case the total building would be after the addition 157,000 sq. ft. Since the 60,000 sq. ft. addition is only 38%, he confirmed the applicant meets that requirement.

Attorney Markey stated that an interpretation would be acceptable as a motion to find that the proposing warehousing is an accessory use.

MS. CUNNINGHAM MOVED IN THE CASE OF Z-12-06 TO APPROVE THE PROPOSED WAREHOUSE AS AN ACCESSORY USE. SECONDED BY MR. SCHMITT. MOTION UNANIMOUSLY CARRIED.

E. Case Z-12-05 American Hydro Corporation

Attorney Jeff Lobach, Barley, Snyder
James Nolt, Representative, American Hydro
David Koratich, LSC Design

All witnesses were sworn in.

General Case Summary:

325-114.D. Parking facilities required by land use.

Office: general or professional = 3.5 spaces per 1,000 square feet gross floor area

Manufacturing use = 1 space per 1,000 square feet of gross floor area

325-116.G. Design Standards.

G. All parking spaces shall be ample in size for the vehicles for which use is intended. The net parking space per vehicle shall be not less than nine feet wide and 18 feet long. Outdoor parking space and the approaches thereto shall be paved with concrete, brick pavers or bituminous surface. Such outdoor parking spaces shall not be used to satisfy any open space requirements of the lot on which they are located.

Comments: The applicant's variance request relates to a future proposed two (2) phase building addition of both office & manufacturing space. The first phase of this project will be to construct the office space. The variance that has been requested is asking to not construct any additional parking areas during the first phase of this project and to use an unpaved grass area for any additional parking that is needed during this construction. As stated in their application, the utilization of this parking area would be

required for no more than 24 months (2 years) at which point the second phase of the project would begin and all required parking areas would be constructed, in conjunction with the second phase.

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.

Attorney Lobach stated the American Hydro plant is located at 155 Stonewood Road. The entrance is off of Stonewood Road which is a minor collector under the Township's Comprehensive Plan. The plant is not visible from Stonewood Road and most of it is located in Hellam Township. Exhibit #1 shows the site improved with an office building which is approximately 20,444 sq. ft. There is a 95,000 sq. ft. manufacturing plant and additional ancillary space, bringing the total industrial use at the site to approximately 109,000 sq. ft.

Attorney Lobach stated American Hydro manufactures turbines, pumps and other equipment for the hydro-electric and water distribution industries. They have been in business for 20 years and it is growing worldwide. They are a major exporter of these components. They plan to do the expansion in two phases. The first phase would be an office expansion, 12,000 sq. ft., since the office must be completed first to accommodate employees who will be handling the new work coming in. The construction would then take place later for a 57,000 sq. ft. expansion of the plant.

Attorney Lobach stated the purpose of the presentation is to discuss parking implications of the office expansion. He presented Exhibit #2, an aerial photo depicting the location of the office. The 12,000 sq. ft. would be added to an area which is already a parking area on the south side of the plant. Most of the addition would be in Hellam Twp. The earlier drawing shows that the site has a number of constraints, i.e., floodplain along the southern side of the site. There is also a municipal boundary going through the building as well as a stream on the property, a natural drainage easement and some unbuildable storm water areas. Exhibit #4 illustrates how the company intends to accommodate the Township Ordinance parking requirements. Presently there is a shortage of 28 spaces, which was determined by the Ordinance requirement for manufacturing plants which is one space per 1000 sq. ft. and 3½ spaces per 1000 sq. ft. of office, resulting in 181 spaces are required. The plant was built under the earlier Ordinance and it was compliant at the time, but only 153 spaces were built. Attorney Lobach explained that with the office expansion of an additional 12,000 sq. ft. of office two issues arise – one is that 31 spaces would be taken by the location of the new office. In order to accommodate the parking and lessen the overall shortage, the applicant is proposing to construct six spaces in the area of the existing parking lot. They would also locate 75 spaces in Hellam Township in the northeastern corner of the site on a level grass area. The applicant knows that this is not compliant and is only requesting this relief for a period of no more than 24 months.

Attorney Lobach referred to Exhibit #5 which is a drawing illustrating how the two changes would appear. He explained the spaces would be marked off with columns, appropriate signing and designation to make sure that the parking area works, without paving. He also noted the final plan for the expansion of the manufacturing part of this building is not yet finalized.

Attorney Lobach referred to Exhibit #4 showing the addition of the six spaces on the south side of the building and indicated the 75 spaces in the grass lot would add 81 spaces with a total of 203 spaces. This would be within 20 spaces of the ordinance requirement of 223. Consequently, the request is for two areas of relief relating to parking, one is a diminimus accommodation to supply 20 fewer spaces than the Ordinance requires and the second request is with respect to the type of parking spaces constructed. Attorney Lobach referred to the Ordinance §325-116 Design Standards, which requires spaces to be of a certain size and not to be used to count as open space for dimensional calculations and requiring them to be paved. He reiterated the spaces proposed will be the right size; they will not be used to calculate open space and will not be paved. He explained the reason for not paving is they do not want to create additional impervious surface which will not be needed long term, since they do not know what the fate of this area will be in the future.

Discussion was held in the event the additional construction does not occur. Attorney Lobach stated if the manufacturing portion is not built they would need to install permanent parking.

Attorney Markey recommended that if the Board is inclined to grant the variance a condition be placed that a construction permit would need to be pulled for the additional manufacturing proposal within two years.

If not then the applicant would be required to reconfigure parking.

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

MR. SCHMITT MOVED IN THE CASE OF Z-12-05 TO GRANT THE VARIANCE TO ALLOW 20 FEWER SPACES THAN THE ORDINANCE REQUIRES AND ALSO ALLOW THE AREA TO BE UNPAVED TEMPORARILY FOR TWO YEARS. ALSO WITH THE CONDITION THAT IF THE APPLICANT HAS NOT PULLED A PERMIT FOR CONSTRUCTION WITH THE TOWNSHIP WITHIN THE TWO YEAR PERIOD THEY WOULD BE REQUIRED TO RESTORE THE PARKING AREA TO ITS ORIGINAL CONDITION. SECONDED BY MS. CUNNINGHAM. MOTION UNANIMOUSLY CARRIED.

F. Case Z-12-03 Kocoronis Partnership

Casey Deller, C.S. Davidson

All witnesses were sworn in.

General Case Summary:

325-193.B. Nonconforming uses and structures.

B. Extensions. A nonconforming use may be expanded to a distance no greater than 150 feet in any direction from the existing nonconforming use or to an area equal to no more than 25% of existing nonconforming use, whichever is the lesser, or in the case of a building, the expansion shall be limited to an area equal to 50% of the existing total usable floor area of the building devoted to the nonconforming use, but excluding basement, cellars, attics, closets, hallways, stairways, service rooms, bathrooms, utility rooms, and unheated areas such as enclosed porches. Nonconforming uses created by variance shall not be permitted to expand.

Comments: The applicant is proposing to construct an addition to 'The Roadhouse'. By right, under our current zoning ordinance, they would be permitted to expand the restaurant by 50% of the existing usable floor area. This would allow for 33.4 additional feet of building frontage along East Market Street. The applicant is requesting a variance to construct 56.7 additional feet of building frontage along East Market Street.

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. Deller stated the property is located at 3691 East Market Street, commonly known as "The Roadhouse". He noted that ownership of this property changed hands to the Kocoronis Partnership. Their plans are to renovate and expand the existing building. Mr. Deller referred to the drawing of the property, indicating they are requesting relief from §325-193 B. for nonconforming uses. 40% of the existing building lies within the front setback along East Market Street. The interpretation of the zoning officer is that the building can be expanded up to 50% of the width within the front setback. The portion of the building closest to East Market Street which is 66.8 feet in width, is permitted by right to expand the building up to an additional 33.4 feet. The request is to increase that expansion up to 56.7 feet with a 24.3 foot increase in width the front setback. The area requested would place the building equal to the existing front building line along East Market Street and meet the building setback line along Davies Drive. The total area for the expansion is approximately 56.7 feet in width along East Market Street and approximately 60½ feet deep resulting in a building area just under 3,500 sq. ft.

Mr. Deller stated the cross hatched sections on the drawing represents two small out buildings which are pieces that were built onto the original structure, which will be taken down. They are called out on the plan as the 575.75 sq. ft. area and the 310 sq. ft. area. The dark gray shaded area is the proposed building addition.

Mr. Deller stated they have analyzed the parking and met with Township Staff. He noted the existing parking lot on the opposite side of the creek is under the same ownership and is used by the Roadhouse. As the building plans are developed, they will have confirmation of the required number of parking spaces. If additional parking is needed, they would then come before the Township with a parking plan, with any necessary storm water management required. Mr. Deller noted an alternative plan is to work with one of the neighboring properties in the shopping center on the opposite side of the road to work out a shared parking agreement.

Mr. Achenbach pointed out the growth percentages allowed under the ordinance are denoted as square footage changes not linear changes. Mr. Deller indicated the Ordinance section for non-conforming uses was determined for area, noting it allows an increase of up to 50% of the building excluding areas such hallways, restrooms, etc. He noted the areas which constitute the restaurant use from the first and second floor of the building is a total of 4,750 sq. ft. excluding those areas noted by the Ordinance. 50% of that sq. footage is 2,375 sq. ft. which would permit the expansion up to 2375 ft. They are requesting 3430 ft. resulting in 40% over what would be permitted.

Discussion was held regarding the parking across the street. Mr. Deller indicated that the property is recognized on the tax maps as a different parcel but it is under common ownership. Discussion was also held as to how to address the parking in light of the fact that the applicant does not yet have a set floor plan which is dependent upon how the new building will be constructed.

Mr. Baugh pointed out that the applicant's variance request has nothing to do with parking – it has to do with the expansion of the building. He also noted that when the application applies for a building permit, Township Staff will determine their parking needs at that time and if they have expand their parking lot by more 3500 sq. ft. they will have to go through a land development plan. Mr. Baugh also pointed out that the expansion and redevelopment of the building fits in well with the Comprehensive Plan and the Town Center Overlay.

Attorney Markey stated he was in agreement with Mr. Baugh's statements.

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

MS. CUNNINGHAM MOVED IN THE CASE OF Z-12-03 TO APPROVE THE VARIANCE FOR §325-193.B. WITH THE CONDITION THAT AN AGREEMENT WITH THE PROPERTY OWNER OF THE LAND ACROSS THE CREEK BE OBTAINED FOR USE BY THE RESTAURANT TO SATISFY PARKING REQUIREMENTS. SUFFICIENT DOCUMENTATION SHALL BE RECORDED AND GIVEN TO THE ZONING OFFICER AND BE ACCEPTABLE TO THE TOWNSHIP SOLICITOR. SECONDED BY MR. SCHMITT. MOTION UNANIMOUSLY CARRIED.

G. Case Z-12-04 Integrity Bank

James Snyder, Snyder, Secary & Associates
Jim Gibson, CEO Integrity Bank

All witnesses were sworn.

General Case Summary:

325-37.A.24 Permitted uses.

A. Permitted principal uses.

(24) Financial institutions, without drive-through facilities.

325-38.E.2 Area and bulk regulations.

E. Building setbacks. Building setbacks of the following minimum and maximum depths shall be provided. No merchandise, produce or display items shall be located within any yard area.

(2) Maximum front setback: 35 feet.

The applicant is proposing to redevelop this property and construct a new 'Integrity Bank'. This property is located in the M-U zoning district, which does not permit drive-throughs, states a maximum building setback (35 feet) in the front yard and does not permit parking in the front yard. This property is also located within the Town Center Overlay, which also does not permit parking in the front yard and states a maximum building setback (50 feet). In addition, the proposed bank would be subject to the conditional use process to be permitted in the Town Center Overlay.

The applicant is requesting variances to permit a drive-through and to permit a 90-foot front setback.

Recommendations: Staff is opposed to the variance from section 325-38.E.2 to allow an increase in the front yard and would strongly recommend denial of this request.

If the findings of Fact and Conclusions of Law meet with the approval of the Board, staff would not oppose the applicant's variance request from section 325-37.A.24 to allow a drive-through at this location.

Mr. Baugh indicated the applicant has submitted a letter of appeal regarding the request for a drive-through in addition to the variance request regarding parking in the front of the building. He requested the Board to address the drive-through first as a separate issue.

Mr. Snyder noted the property is 1.0 acre fully developed site at the corner of East Market Street and South Northern Way, in the mixed use zoning district. Presently there is an automotive facility with parking in the front of the building all the way to the street. On South Northern Way at the back of the existing building it is almost fully paved used for parking and access. The site is approximately 95% impervious. It has access on Northern Way by two driveways. There are also two driveways onto East Market Street, one close to the intersection and one further back adjacent to the property line. Mr. Snyder stated their proposal is to construct a drive-through bank. He noted in accordance with the Ordinance for buildings in this location, financial institutions are listed as a use permitted by right in the mixed use zone, however, a drive-through associated with that use is not permitted. Therefore, they are requesting the variance since their plan proposes a drive through facility and a drive through ATM.

Mr. Snyder presented a drawing showing the layout of the building in the center with the drive-through creating a circulation pattern around the building, with parking proposed in front for access to the building. There would also be parking in the rear of the building for employees, service, etc. There are two access points - one at the southern portion of the property line and another driveway located at the western portion of the site accessing onto East Market Street. The other two driveways will be eliminated. Mr. Snyder stated they are proposing to incorporate extensive landscaping into the plan, taking the site from 96% impervious to approximately 65% impervious. Photos were reviewed showing examples of Integrity Bank layouts at other locations.

Mr. Baugh stated the mixed use district was created to be a buffer between residential and commercial which does not apply in this case, therefore the Township does not oppose the request. Mr. Baugh requested that if positive action was granted by the Board, a condition be added to prohibit buildings, elevations, signs, site plans or access that would be addressed in a conditional use hearing or a land development process.

Attorney Markey noted in that case the applicant would need to go through a conditional use process to be reviewed by the Board of Supervisors.

Chairman Achenbach asked if there was anyone in attendance who wished to speak for or against the applicant. Hearing none he called for a motion on the drive-through issue.

MR. SCHMITT MOVED IN THE CASE OF Z-12-04 TO APPROVE THE VARIANCE FOR A DRIVE-THROUGH ONLY FOR INTEGRITY BANK, NOTING THAT ANY APPROVALS WITH RESPECT TO THIS VARIANCE OR REMAINING ZONING RELIEF SHALL NOT RELIEVE THE APPLICANT OF FULL COMPLIANCE WITH ALL ZONING REQUIREMENTS THROUGH THE CONDITIONAL USE PROCESS AS WELL AS THE LAND DEVELOPMENT PROCESS. SECONDED BY MS. CUNNINGHAM. MOTION UNANIMOUSLY CARRIED.

Discussion ensued regarding the applicant's request for the variance for an increase in setback, as well as parking in the front of the building. Mr. Baugh pointed out the Town Center Overlay provides certain requirements for setbacks. He noted that the appeal submitted by the applicant states their opinion that this is a continuation of a nonconforming use and Mr. Baugh stated it was his interpretation that it is not.

Mr. Snyder clarified that the reason they did not ask for the variance initially is because they were operating under the presumption that the existing parking shown on the photograph which is fully paved from the building to the street and used for access, circulating, parking, etc., and that it is a land use. He noted the Township Ordinance in addressing terms of non-conformities recognizes the difference between building use and land use and presents a different set of standards for the expansion of the nonconforming use for buildings. He noted it states the area based for a land use such as parking is 150 ft. or 25% of the area of that non-conformity. Therefore, their assumption is that the parking area in the front of the building is a land use that is existing, lawful and non-conforming, but it can be expanded, and he noted they propose to expand it as part of their application. In lieu of the Board agreeing with the Township, Mr. Snyder stated they would ask for a variance to allow parking in the front of the building and the other variance for a setback to allow the building to be placed further back into the site. He noted this would allow for parking and access in front of the building to accommodate parking in close proximity to the building circulation for the drive-through and proper function of the site.

Mr. Baugh confirmed the Town Center Overlay does not allow parking in the front yard. He noted the front yard for this facility would be Market Street and Northern Way. He also reiterated the fact that the applicant has submitted a land development plan which signifies the entire site will be developed. This would preclude identifying the site as a continuation of a non-conforming use.

Attorney Markey stated that he was in agreement with Mr. Baugh. He noted if the Board is satisfied with their position that it is not a pre-existing non-conformity that cannot be grandfathered, a denial of the interpretation appeal of the applicant would be in order for that issue.

Mr. Baugh confirmed that the Township is opposed to the variance for a building setback and parking in the front yard. He further stated they are willing to work with the applicant to provide ample parking.

MR. SCHMITT MOVED IN THE CASE OF Z-12-04 TO DENY THE INTERPRETATION APPEAL OF THE APPLICANT TO FIND THAT THE OFF STREET PARKING IS A CONTINUATION OF A PRE-EXISTING NON-CONFORMITY. SECONDED BY MS. CUNNINGHAM. MOTION UNANIMOUSLY CARRIED.

Mr. Gibson, CEO of Integrity Bank addressed the difficulties and hardships of the site to redevelop. He provided a photo of the current site as well as examples of the branding of the bank branch. He noted they have redesigned the branch to accommodate this site to the best of their ability, with particular consideration for safety of pedestrians entering and exiting the bank.

Mr. Baugh stated that all of the hardships mentioned have been considered by all entities of the Township. He noted that in the Town Center Overlay a bank is not permitted by right, it is a conditional use which is the same as granting a special exception. He also stated that the Town Center Overlay supersedes every zoning district, noting if it is not covered in the Overlay, then it reverts to the underlying district.

Attorney Markey stated the task of the Board is to determine if the applicant has carried their burden of proof to demonstrate that there are unique physical circumstances or conditions affecting the property such that it creates an undue hardship and that it is the standard variance request. He noted the applicant has offered evidence and testimony indicating they believe they have satisfied the variance criteria and the Township Zoning Officer has indicated he does not believe they have carried their burden of proof.

Discussion was held with the applicant to consider placing the parking in the rear of the building. The applicant indicated their architect was unable to modify the plan to accommodate parking in the rear.

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

Witnesses were sworn in.

Charles Stuhre – 2180 Trout Run Road - Commented that the ADA and L&I standards have to apply for the handicapped parking in the back of the building in order to have the ability for a handicapped person to circulate the building.

John Slatkey - 3673 Cimeron Road - Commented that the Wells Fargo Bank has parking in the front as well as the Susquehanna Bank.

Discussion was held concerning the fact that the Zoning Hearing Board is bound by the concept and the philosophy of the Town Center Overlay with no ability to concede to the individual desires of the applicant.

Attorney Markey stated if that is the case then the result is the two variances should be denied.

MS. CUNNINGHAM MOVED IN THE CASE OF Z-12-04 TO DENY THE VARIANCE REQUEST TO ALLOW THE MAXIMUM BUILDING SETBACK UNDER §325-38.E.2. SECONDED BY MR. SCHMITT. MOTION UNANIMOUSLY CARRIED.

MS. CUNNINGHAM MOVED IN THE CASE OF Z-12-04 TO DENY THE VARIANCE REQUEST FOR PARKING IN EITHER OF THE FRONT YARDS UNDER §325-116.T. SECONDED BY MR. SCHMITT. MOTION UNANIMOUSLY CARRIED.

5. ADJOURNMENT

Chairman Achenbach adjourned the meeting at 8:30 p.m.

Respectfully submitted,

Secretary

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