

PENN TOWNSHIP PLANNING COMMISSION
APRIL 4, 2024

Chairman Zach Smith called to order a meeting of the Penn Township Planning Commission at 7:00 p.m. on Thursday, March 7, 2024. Also present were planning members Ron Arnold, Matthew Baile, Michael Brown, Ronnie Bull, Michael Hoover, and Jeremy Shry, along with Zoning Officer Robert Smith, Township Engineer Eric Bortner, and Township Secretary Sweeney.

All in attendance stood for the Pledge of Allegiance to the Flag, which was followed by a period of silent meditation.

The planners approved the March 7, 2024, Planning Commission minutes as corrected.

The planners received the following zoning appeal and made the following recommendations:

ZHB24-01- 333 Realty, LLC, c/o Buck M. Stuckey, Sole Member represented by Barley Snyder, 100 East Market Street, York, PA 17401. The applicant is requesting a special exception to Section 407.2 (Expansion and Alteration); a variance to Section 400.1 (Front Setbacks from Major or Minor Arterials) and Section 300.3 (Fences & Walls); and an appeal to a previous Zoning Hearing Board Decision in order to construct an addition and a fence to an existing assisted living home. The property is located at 3101 Grandview Road in the R-15 Zone.

Attorney Stacey MacNeal from Barley Snyder, Kevin Barnes from Group Hanover, Inc., and Mr. Bucky Stuckey, the property owner, were in attendance to present the request.

A question was posed to Zoning Officer Smith and the board regarding whether it would be best for the board to decide on the appeal. This is because if the appeal is denied, there would be no reason to hear the proposal on the special exception and variance requests. Attorney MacNeal noted that there is procedural uncertainty regarding whether to submit the request as an appeal on a decision made by the Zoning Hearing Board in 2005 or as a variance request, as discussed between Mr. Kevin Barnes, GHI, and the Zoning Officer.

Planner Hoover clarified that the zoning decision from 2005 clearly prohibits any additional expansion of the non-conforming use. Upholding this decision means there's no need to consider the presentation. Therefore, there's no requirement for the board to review their proposal, as the decision made in 2005 remains valid due to the board's stance against further expansion of the nonconforming use.

Attorney MacNeal clarified that the current owner is not looking to expand the use. The previous use was for 41 residents, and they are proposing to decrease it to 40 residents. The applicant is requesting zoning relief to allow a de minimis 263 square foot addition in order to make renovations to provide code-compliant restrooms and kitchen facilities. Currently, there are

no ADA accessible bathrooms. That was not an issue in 2004 but has become an issue today. Mr. Stuckey, the new owner, is in the process of doing interior work to update and make the facility more "homey" for the residents.

The question arose as to why Mr. Stuckey can't make the proposed improvements under the 2005 conditions within the current facility. Attorney MacNeal explained that there are several factors involved in installing the restrooms and configuring them according to the building's design. She noted that under Pennsylvania case law, if considering this as a variance, de minimis variances do not necessitate demonstrating hardship or meeting the other criteria typically required for variances.

Zoning Officer Smith stated that they have already applied for building permits for the interior improvements. He clarified that his understanding is that the expansion in the front is for a dining area, which is not what the application is for. Attorney MacNeal countered by stating that the expansion will indeed include the dining area. She explained that when expanding the restrooms, the dining area will be lost to the expansion. Therefore, to maintain the dining area, an additional 236 square feet is needed.

Mr. Buckey stated that in 2004, there were no ADA requirements for walkers and wheelchair accessibility. He is striving to make the facility homier, as it still resembles a church, its previous use. He is seeking a variance to install a six-foot fence in the front yard for the safety of the residents. He mentioned instances where residents have wandered out in the middle of the night, necessitating safety precautions. The request for the dining room extension is because they need to expand the bathroom on-site to accommodate walkers and wheelchairs. They must be able to wheel residents into showers. He clarified that he is not seeking to add residents but is instead requesting a nice porch and an extension of the dining area to make the bathrooms ADA compliant. Additionally, he plans to extend the kitchen to accommodate the residents.

Zoning Officer Smith reported he had previously questioned the Zoning Hearing Board solicitor as to whether the 2005 decision could be overturned. The solicitor confirmed that the current Board can overturn the decision. Planner Hoover stated that he understood and that the current Board of Commissioners had the right to appeal any decision the Zoning Hearing Board would make.

Commissioner Brown asked why they are adamant for the six-foot fence in the front yard. Attorney MacNeal stated the Mr. Stuckey has owned the property for about a year and has a memory care certificate for this assisted living facility and has had people that have wandered down to the street. The fence would be an added safety precaution to allow residents to sit out on the front lawn. Zoning Officer Smith asked if they could meet the State's criteria of the site distance of the driveway to the road. Mr. Stuckey said absolutely, there is nothing on either side, and they are proposing to install a 6 foot see through rod-iron fence. Mr. Barnes reported that the fence is proposed outside of the clear sight triangle as part of the land development plan, the location of the fence will be an item for review and can provide a copy of the clear sight distance calculations.

Chairman Smith asked the board if they would like to look at the entire application request, Ronnie Bull agreed. The board decided to look at each request separately.

Planner Brown made a favorable recommendation to the Zoning Hearing Board to bring the facility into compliance with ADA accessibility requirements, contingent upon the condition that there will be no further additions to the building for any additional type of residential housing, referencing Section 407.2 (Expansion and Alteration) in the case of ZHB24-01-333 Realty, LLC, represented by Buck M. Stuckey as the sole member.

Planner Hoover seconded the motion for discussion purposes only. During the discussion, Planner Hoover sought clarification regarding the scope of the board's vote, emphasizing whether the vote pertained solely to Section 407.2. He emphasized that by approving Section 407.2, the board effectively ruled in favor of the applicant on the appeal.

Planners Arnold and Brown further explained the necessity for the Zoning Hearing Board to be informed of the Planning Commission's recommendations, particularly in relation to the potential outcome of the appeal.

Zoning Officer Smith provided additional context, indicating that if the Commission approves Section 407.2, it will automatically grant approval for the variance to Section 400.1 (Front Setbacks from Major or Minor Arterials). He clarified that the required setback for major or minor arterials is 50 feet, whereas the current setback stands at only 35 feet. Mr. Barnes elaborated that the building currently sits at 42-43 feet, and with the proposed addition, it would meet the zoning district requirements but not the setback modification section.

Planner Hoover then requested a roll call vote:

On the motion for a favorable recommendation to the Penn Township Zoning Hearing Board to bring the facility into compliance with ADA accessibility requirements, contingent upon the condition that there will be no further additions to the building for any additional type of residential housing, in case ZHB24-01-333 Realty, LLC, c/o Buck M. Stuckey, sole member, Section 407.2 (Expansion and Alteration) in order to construct an addition as it meets the requirements for a special exception as set forth in Section 503.3 a) thru e). Motion carried 4-3 with Planners Brown, Bull, Shry, and Smith voted in favor, and Planners Arnold, Baile, and Hoover casting the dissenting votes.

Zoning Office Smith stated with the approval Section 407.2, that decision approved the variance request for Section 400.1 (Front Setbacks from Major or Minor Arterials)

Planners Brown/Arnold moved for an unfavorable recommendation to the Penn Township Zoning Hearing board in case ZHB24-01-333 Realty, LLC, c/o Buck M. Stuckey, sole member, for a variance to Section 300.3 (Fences & Walls), as it does not meet the requirements for a variance as set forth in Section 502.3 a) thru f). Motion carried on a 6-1 vote, with Planner Bull casting the dissenting vote.

ZHB24-02- Daman, Ryan S. represented by Roberto Ugarte, Becker Law Group, P.C., 529 Carlisle Street, Hanover, PA 17331. The applicant is requesting a special exception to Section 322 (Uses Not Provided For) in order to operate a motorcycle /ATV repair shop / storage facility. The property is located at 502 Meade Avenue in the R-8 Zone.

Zoning Office Smith reported that Attorney Ugarte submitted a letter stating a conflict with the meeting this evening and the date of the Zoning Hearing Board, therefore requesting an extension until the May Planning and Zoning meeting.

Planners Hoover/Bull made a favorable recommendation to extend the request until next month's meeting. Motion carried 7-0.

Review and make recommendations on waiver and exoneration requests:

RGS Associates, on behalf of LCBC Hanover, is requesting a waiver to Section 405 (Final Plan Scale), Section 505.C. and 505.K.(1) (Existing Road Frontage and Sidewalk), Section 505.K. (Curbs), Section 605 (Bufferyard Along Arterial Street), Section 268-12 (Volume Controls) and Section 268-15.B(3) and Section 268-15.B(4)(a) (Additional Stormwater Management Design Standards) of the Penn Township Subdivision and Land Development Ordinance in regards to their Final Land Development Plan. The property is located at 37 Industrial Drive.

Township Engineer Bortner recommended postponing discussion until the request is represented. The Commission agreed.

The planners reviewed and made recommendations on the following pending subdivision/land development plans:

SL17-10-MUSTANG POINTE, J. A. Myers, 160 Ram Drive, Hanover, PA 17331. A preliminary subdivision plan to create 190 new residential building lots. The property is located between Breezewood Drive and Bowman Road in the R-8 zone. **There was no action taken on this plan.**

SL21-05-ELSNER ENGINEERING WORKS, Elsner Engineering Works, 475 Fame Avenue, Hanover, PA 17331. A final subdivision plan was submitted in order to construct an Industrial Building for the expansion of Elsner Engineering. The property is located West of the intersection Barnhart Drive and Industrial Drive, Hanover, PA in the I-Industrial zone. **There was no action taken on this plan.**

SL22-01 – WATER STREET FOUR, LLC, Hanover Land Services, Inc, 585 McAllister St, Hanover, PA 17331, A Preliminary/Final Land Development plan submitted in order to create one-hundred twenty-two (122) new residential units. The property is located on Moulstown Road in the R-8 Urban Residential zone. **There was no action taken on this plan.**

SL22-10- 934 BALTIMORE STREET – CODY BENTZEL, GHI Engineers & Surveyors, 213 Carlisle St, Hanover, PA 17331. A Consolidation/Land Development Plan was submitted in order consolidate two parcels, convert existing buildings and proposed building into a retail space. The property is located at 934 Baltimore Street in the HB Highway Business Zone. **There was no action taken on this plan.**

SL22-11- LIBERTY RESTORATION & CONSTRUCTION LLC, Hanover Land Services, Inc., 585 McAllister Street, Hanover, PA 17331. A Preliminary/Final Reverse Subdivision and Land Development Plan was submitted in order to consolidate two parcels into a sales office space. The property is located at 10 Westminster Avenue in the R-8 Urban Residential Zone. **There was no action taken on this plan.**

SL24-02- 37 INDUSTRIAL DRIVE- YAZOO MILLS, DC Gohn Associates, 32 Mount Joy Street, Mount Joy, PA 17552. A Preliminary Land Development Plan was submitted in order to construct a proposed industrial building. The property is located at 37 Industrial Drive in the Industrial zone. **There was no action taken on this plan.**

SL24-03- HOLLAND CONSTRUCTION -100 BLETTNER AVE, Site Design Concepts, Inc., 127 W. Market Street, Suite 100, York, PA 17401. A Final Land Development Plan was submitted in order to construct a proposed industrial building. The property is located at 100 Blettner Avenue in the A-O Apartment or Office Zone. **There was no action taken on this plan.**

SL24-04- SOUTH HEIGHTS MANOR, LP - 116 ONYX DRIVE, Hanover Land Services, Inc., 555 Centennial Avenue, Suite 125, Hanover, PA 17331. A Final Subdivision Plan was submitted in order to subdivide an existing lot into two lots. The property is located at 116 Onyx Drive in the R-22 zone. **There was no action taken on this plan.**

SL24-05- LCBC HANOVER – 1504 BROADWAY, RGS Associates, Inc., 53 W. James Street, Ste 101, Lancaster, PA 17603. A Final Land Development Plan was submitted in order to construct an addition to an existing house of worship. The property is located at 1504 Broadway. **There was no action taken on this plan.**

SL24-06- SNYDERS-LANCE – 1401 YORK STREET & YORK STREET (UN-ADDRESSED), Hanover Land Services, 555 Centennial Avenue, Suite 125, Hanover, PA 17331. A Preliminary-Final Subdivision Plan was submitted in order to subdivide two existing lots into three lots. The property is located at 1401 York Street & York Street (un-addressed) in the R-15 and I Zones. **There was no action taken on this plan.**

Draft Zoning Ordinance –

After in-depth discussion on the following sections of the draft Zoning Ordinance, the following changes were proposed:

Retirement Home/Village

Section 212 Land Use Table allowed by Special Exception in the R-10 Urban Residential, R-15 suburban Residential and Mixed-Use Zones.

Concentrated Animal Feeding Operation

Section 212 Land Use Table and Section 624 allowed by Special Exception in the Industrial Zone

Public Comments: There were none.

The meeting was adjourned at 8:36 p.m.

Respectfully submitted,

Donna M. Sweeney
Recording Secretary