

Manheim Township Zoning Hearing Board Minutes
Monday, March 2, 2009
6:30 P.M.

Attendance:

Michael Winters	Present
Patrick Trimble	Present
David Wood	Present
Edward Hoover	Present
Robert Byram	Absent

David Wood asked for a roll call. A quorum of the Board was established.

Chairperson David Wood opened the meeting, explained the Zoning Hearing Board meeting process, and announced the agenda.

George Kratzert
I-1, 780 Eden Road.

Case #09-09

Todd Shoaf, George Kratzert and Frank Vargish were sworn in for testimony.

Mr. Shoaf distributed an additional site plan to the Board. Mr. Shoaf began by explaining the property layout and location. Mr. Shoaf stated the following: The Moore Business Park has seven buildings with 15 tenants. In the beginning, agricultural buildings were converted into business uses. The present day uses include office, warehouse and commercial recreation. There are 139 parking spaces existing on the property with 130 parking spaces presently required on the lot.

Mr. Shoaf continued by explaining that an existing office tenant would like to move to building five which would convert the 10,271 S.F. of existing warehouse use to office use. With this conversion the total parking spaces needed for the property would be 174 parking spaces if all office spaces would be occupied. Mr. Shoaf stated that there is no problem with parking today. .

Mr. Shoaf explained that a parking survey has been done from time to time for 5 years and is included in the submittal to the Board. The property owner completed the parking survey. This parking survey revealed that an average of 79 of the 139 parking spaces is being used today. According to the parking survey, 25 parking spaces are still available to be used on the property. The types of uses operating on the property are the reason for the amount of parking spaces not being utilized. The commercial recreation is an after hours use.

Mr. Shoaf continued to explain that a subdivision plan is being reviewed which would create a street and cul-de-sac that would remove three existing parking spaces. Seven parking spaces would be created at building five to make up for this loss. There will be a total of 143 parking spaces on the property.

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Mr. Shoaf stated that Mr. Kratzert is requesting a variance for 143 parking spaces instead of the required 174 parking spaces. There is a short fall of 31 spaces. There is no more space to place parking on the property. The parking survey shows that more than adequate parking spaces are provided.

There was a discussion with the Board regarding the parking survey calculations.

Mr. Vargish stated that the Thermocore facility was removed from this property. Mr. Kratzert has an agreement with Thermocore to use there parking spaces if needed. The Dance Studio is an after hours use.

Mr. Winters moved to grant a variance to sections 1701 and 1702. to permit the existing Moore Business Park to maintain the current number of parking stalls after 10,271 S.F. of existing warehouse space is converted to office space, consistent with the testimony and exhibits provided to the Board this evening. Mr. Trimble seconded the motion. The motion was approved 4-0

George Mummert on behalf of Margaret Elaine Garyantes

Case #09-10

R-3, 780 Eden Road

George Mummert, Elaine Garyantes, Rule Farmer, Vicki Fritz, Robert Hallinger and Matt Knepper and were sworn in for testimony.

Mr. Mummert explained the he is planning to construct an addition on the rear of the dwelling encroaching within 3 feet of the interior lot line. There is an existing porch that was constructed up to the interior lot line, this porch would be demolished and the addition will be built in the same location. Mr. Mummert stated that to move the addition three feet in from the interior lot line would close off the existing entrance to the basement. The basement wall is constructed of stone which is settling and would be too unstable to place a new basement entrance in the basement wall. The existing BILCO basement stairway would be moved to the rear of the new addition constructed up to the interior lot line.

Mr. Mummert stated that the lot is narrow and most of the buildings in the neighborhood do not meet the building setbacks. The existing windows and doors on the dwelling would have to be moved to meet the ordinance setback requirements. The new addition would have a basement.

There was a discussion regarding the proposed building setbacks.

Public Comment

Mr. Hallinger attorney for Ms. Fritz stated that the addition could be built in compliance with the zoning ordinance requirements.

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Ms. Fritz, neighbor of this property, stated that she is opposed to the addition because it would block her view from her back window. The structure would create shade and would not get sunlight to melt the ice. The addition would lower the resale value of her house. Ms. Fritz distributed photographs to the Board of the rear yard.

Mr. Hallinger reviewed the hardship criteria of the Zoning Ordinance and stated that the applicant has not proved a hardship. The addition could comply with the Zoning Ordinance. The addition could be built farther into the rear yard.

Mr. Mummert stated that he could comply with the Zoning Ordinance but he would not want to disturb the load-bearing basement wall. Mr. Mummert stated that he wants to enlarge the living space because of the growing family.

Mr. Kneafner is a neighbor on the other side of Mr. Mummert and stated that he has no problem with the addition. He stated that the impact would be less if the variances would be granted. The addition would be shorter VS longer and narrower.

Mr. Farmer explained the construction practices and the construction of the building.

Mr. Winters moved to deny the variance request. Mr. Hoover seconded the motion. The motion was approved 3-1 with Mr. Wood dissenting. The Board stated that the addition could be built to comply with the Zoning Ordinance.

Kong Yew Foo

B-3, 1961 Fruitville Pike

Case 09-11

Kong Yew Foo and Ivan Liu were sworn in for testimony.

Mr. Foo explained his request. Mr. Foo and his business partner are requesting a special exception to operate an 18 seat takeout Sushi restaurant in the Foxshire Shopping center. The Foxshire Shopping Center is located within the B-3 zoning district. Mr. Foo stated that he has been in the restaurant business for more than ten years. The business should open in ninety days, by June. The hours of operation would be Monday through Thursday 11:00 AM to 10:00 PM, Friday and Saturday 11:00 AM to 11:00 PM, and Sunday 12:00 noon to 10:00 PM.

Mr. Foo stated that the seating is for the convenience of his customers, waiting for their food order or to eat in, but the majority of business would be takeout.

Mr. Winters moved to approve a special exception in accordance to section 1203.4. to permit a takeout Sushi restaurant to operate at 1961 Fruitville Pike consistent with the exhibits and testimony presented to this Board this evening including the cover letter that was introduced and marked as applicant's exhibit #1. Mr. Trimble seconded the motion. The motion was approved 4-0.

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Landis Valley Partners

B-3, 2363 Oregon Pike

Case 09-12

Caroline Hoffer, David Marschka, Donna Deerin and William Swiernik were sworn in for testimony.

Ms. Hoffer explained the request. Landis Valley Partners is the equitable owner of the property. The property is located in the B-3 zoning district. The property would be subdivided into two lots for office and retail uses which are all permitted uses. The requests would be dimensional adjustments on the property.

Mr. Swiernik reviewed and explained the requested variances with the Board. The requested variances would be regarding the placement of the 10 foot planting strip in the 20 foot improvement area not adjacent to the street right of way, placing the required screening in the 20 foot improvement area outside of the 10 foot planting strip area, placing a sidewalk within the 20 foot improvement area, permitting parking lot light standards with brighter than 2 foot candles at the common property lines, and a time extension of 12 months from zoning approval to obtain permits and 12 months to complete construction from the date of obtaining permits.

Mr. Swiernik stated the following: The proposed sidewalk would be placed in the improvement area which is for the pedestrian movement on the property. This location would be safer than placing the sidewalk along the other side of the driveway, which would be crossing entrances to the parking areas. Screening would be provided on the property but the location would not be along the right of ways of Oregon Pike and Landis Valley Road but rather would be placed farther inside the property beside the parking areas, which would create better screening of the vehicles. The lighting at the exterior property lines would comply with the zoning ordinance. However, they are requesting a variance for the lighting intensity at the common property lines inside the property, which that lighting would not comply with the ordinance.

Public Comment.

The neighbors in the Landis Commons subdivision raised concerns of a shopping center being developed close to their properties. They were concerned with privacy in their rear yards and lighting brightness from the proposed parking lots. The lighting plan was explained to the residents. The residents were told that this is the first step in the development process. The residents were told to attend the future meetings of the Planning Commission and Commissioners who must approve this development.

Ms. Deerin stated that their company has a history of working with the neighbors concerns.

Ms. Hoffer stated that these modifications are deminimis and meet the intent of the zoning ordinance.

Mr. Winters moved to approve the following: a variance of section 1204.2.E.5.d. to permit the sidewalk to be located within the 20 foot improvement area between lots 1 and 2 and along lot 2 south property line; a variance of section 2305.3. to permit the light from the light fixtures along

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the drives and within parking areas on lots 1 and 2 to exceed 2 foot-candles at a 3 foot height only along the common property line between lots 1 and 2; a variance to section 2312.2.A. to permit the 10 foot wide planting strip along Oregon Pike to be located within the 20 foot improvement area instead of being located immediately adjacent to the street right of way along Oregon Pike; a variance to section 2312.3.A to permit the required 10 foot wide planting strip to be located within the 20 foot improvement area adjoining the right of way, but not measured from the street right of way lines on Oregon Pike and Landis Valley Road; a variance to section 2312.4.A.1. to permit the proposed landscape screen along the east property line of lot 2 to be located within the 20 foot improvement area instead of within the required 10 foot planting strip area; a variance to section 2208 to allow permits to be obtained within 12 months from zoning approval and to extend the date for construction to be completed within 12 months from the date of obtaining those permits. Mr. Hoover seconded the motion. Motion was approved 4-0.

Pamela J. Bazella-Nauman

R-2, 1731 Lititz Pike

Case 09-13

Pamela Bazella-Nauman and Marilyn Berger were sworn in for testimony.

Ms. Nauman explained she is requesting a special exception to expand the non-conforming office use at 1731 Lititz Pike. Ms. Nauman stated that she is selling this property and the new owner would like to place an optometrist office in the building and use the second floor for the business. The certificate of use and occupancy prohibits the uses of the second floor.

Mr. Wood reviewed the special exception criteria and parking requirements with the applicant. Ms. Nauman stated that there are 16 existing parking spaces on the property. Mr. Maurer stated that nine parking spaces would be required with the second floor occupied.

Lisa Douglas stated that handicap parking spaces may be required and that might decrease the number of parking spaces.

Mr. Winters moved to approve a special exception in accordance with section 301.4.B to permit the expansion of an existing non-conforming use to allow the second floor to be used as an office; and a variance to section 301.4.B.1. to permit the non-conforming use expansion to exceed 25 percent with the following conditions: the applicant to obtain a certificate of use and occupancy for the second floor and proposed use and that the applicant meet all other applicable building code and regulations. Mr. Hoover seconded the motion. The motion was approved 4-0.

The meeting adjourned at 9:19 PM. The next regularly scheduled meeting will be held on Monday, April 6, 2009 at 6:30 P.M.