

Minutes of the
ZONING HEARING BOARD
Regular Meeting
September 12, 2018

ATTENDANCE: Present: Joanne Redding, Chairperson
Albert Champion, Vice Chairperson
Barbara M. Kirk, Solicitor
Ronald Gans, Township Engineer
Michael Brill, Member
George Seymour, Member

Absent: Angeline Domanico, Secretary (resigned)

ITEM 1 Meeting opened at 7:08 P.M. with the Pledge of Allegiance

ITEM 2 Introductions of Board Members and Statement of Rules and Procedures by Solicitor.

ITEM 3 Approval of August, 2018 minutes

ITEM 4 **Continued Hearing of Michael R. Nugent**
Appeal #2017-566
Location: 3247 Clive Avenue
Tax Parcel: 02-066-065
Request: Variance to use lot for commercial parking.

DISCUSSION The following are exhibits:

- A-1 Application and accompanying documents
- A-2 Letter from attorney requesting first continuance
- A-3 Letter from attorney requesting second continuance
- A-4 Certificate of Service
- A-5 Map of Property
- A-6 Colored Photos
- A-7 Praeipce for Lis Pendens
- A-8 December 7, 2017 Order entered against Lee Goodman
- A-9 December 7, 2017 Order entered against James Shelly
- A-10 Docket 2017-03854 naming Lee Goodman as defendant
- A-11 Docket 2017-03852 naming James Shelly as defendant
- A-12 Order striking Lis Pendens
- A-13 Use variance plan
- A-14 Landscaping plan
- A-15 ABC Construction use variance plan
- B-1 ZHB letter of hearing to Applicant/applicant's attorney
- B-2 Proof of publication
- B-3 Proof of posting

- **Item 4 was heard collectively with Items 5, 6, and 7.**

ITEM 5 **Continued Hearing of Michael R. Nugent**
Appeal #2017-567
Location: Clive Avenue
Tax Parcel: 02-075-047
Request: Variance to use lot for commercial parking.

ITEM 6 **Continued Hearing of Michael R. Nugent**
Appeal #2017-568
Location: 3259 Clive Avenue
Tax Parcel: 02-075-049
Request: Variance to allow natural state to be less than 45%

ITEM 7 **Continued Hearing of Michael R. Nugent**
Appeal #2017-569
Location: 3242 Moore Avenue
Tax Parcel: 02-075-056
Request: Variance to use lot for commercial parking.

DISCUSSION The following are exhibits:

- A-1 Application and accompanying documents
- A-2 Letter from attorney requesting first continuance
- A-3 Letter from attorney requesting second continuance
- A-4 Certificate of Service
- A-5 Map of Property
- A-6 Colored Photos
- A-7 Proposed landscape plan
- A-8 Leyland Cypress tree information
- A-9 White Cedar tree information
- A-10 Letter from attorney requesting continuance to September 2018
- A-11 Use variance plan
- A-12 Landscaping plan
- A-13 ABC Construction use variance plan
- B-1 ZHB letter of hearing to Applicant/applicant's attorney
- B-2 Proof of publication
- B-3 Proof of posting

- **Items 5, 6, and 7 were heard collectively with Item 4.**

Michael Nugent is present, as well as his attorney Christopher H. Steward, Esquire. Solicitor explains that Item 4 (Appeal No. 566) is separate from Applicant's other appeal requests: Nos. 567, 568, and 569. Item 4 (Appeal No. 566) involves an eviction matter which has been pending in the Bucks County Court of Common Pleas. Mr. Steward submits the Order Making Rule Absolute, which strikes and removes the Lis Pendens. Solicitor marks the Order as Exhibit A-12. Mr. Steward requests to incorporate all testimony with Appeal Nos. 566, 567, 568

and 569. Ms. Redding agrees that all testimony will be incorporated. Solicitor requests if there is a landscaping plan, per the last hearing. Mr. Steward submits a Use Variance Plan and Landscape Plan, which Solicitor marks as Exhibit A-13 and Exhibit A-14, respectively [Exhibit A-11 and A-12 for Nos. 567, 568 and 569].

Mr. Steward testifies that the outstanding issues of the Lis Pendens and landscaping plan are now resolved so these collective matters can now move forward with testimony. Solicitor points out that based on the plans submitted, Mr. Steward is now asking for additional variances regarding impervious surface issues. Solicitor advises that this is a problem because the notice of these appeals did not include variances regarding impervious surface. Ms. Redding reiterates that there needs to be new advertisement and notice for impervious surface and water run-off issues. Mr. Steward also advises that since the prior March hearing, there was a theft at the property. They are now requesting that a 6 foot chain link fence with barbed wire be installed. Mr. Steward submits ABC Construction use variance plan, and Solicitor marks as Exhibit A-15 [Exhibit A-13 for Nos. 567, 568 and 569]. Two additional variances are needed for the requested fencing because the lots are R-2, not commercial. All parties review Exhibit A-15 [Exhibit A-13]. Mr. Champion asks if the advertisement was correct on Appeal No. 569. Solicitor is not sure. Mr. Gans advises that there are 10 different maps for this location, and Clive is R-2. Moore is one-half LI and one-half R-2, and the fencing is not permitted in either. Commercial parking is not allowed in LI. Mr. Champion points out that the wording regarding the zoning designations on Exhibit A-15 [A-13] is not correct.

Solicitor and Mr. Steward request a 5 minute break. Ms. Redding approves.

5 MINUTE RECESS

Mr. Steward requests a continuance to the Boards January, 2019 date, in order to amend the application.

Solicitor advises that Applicant will need to resubmit the amended application, and there will need to be new notice and advertisement.

MOTION Albert Champion motions for the hearing for Michael R. Nugent; Appeal Nos. 2017-566, 567, 568, and 569; Locations: 3247 Clive Avenue, Clive Avenue, 3259 Clive Avenue, and 3242 Moore Avenue; Tax Parcels: 02-066-065, 02-075-047, 02-075-049, and 02-075-056 be continued to January 3, 2019. George Seymour seconds, all in favor.

ITEM 8

Continued Hearing of Mar Mar Builders, Inc.

Appeal #2018-602

Location: 1186 Byberry Road

Tax Parcel: 02-074-110

Request: Variances to construct an 8 lot subdivision.

DISCUSSION Solicitor states she received a letter dated September 12, 2018, from Edward Murphy Esquire, withdrawing the appeal, without prejudice. The matter was removed from the Agenda.

ITEM 9

Continued Hearing of BSV Housing LP

Appeal #2018-621

Location: 3063 and 3095 Mechanicsville Road

Tax Parcel: 02-037-063 and 02-037-063-001

Request: Variance for height, rear yard setback and buffer to construct a residential complex for seniors preference.

DISCUSSION Solicitor states she received a letter dated August 21, 2018, from Thomas R. Hecker, Esquire, withdrawing the appeal. The matter was removed from the Agenda.

ITEM 10

Continued Hearing of Felix Ceron

Appeal #2018-626

Location: 2846-50 Street Road

Tax Parcel: 02-037-005

Request: Variance for sign to exceed 50 square feet.

DISCUSSION The following are exhibits:

- A-1 Application and accompanying documents
- A-2 Certification of Service
- A-3 5 photos of the property
- A-4 Photo with sign photo-shopped in.
- B-1 ZHB letter of hearing to Applicant/applicant's attorney
- B-2 Proof of publication
- B-3 Original proof of posting
- B-4 ZHB letter of 8/7/18 to Applicant with notice of instructions

Applicant's attorney Steven P. Patrizio, Esquire is present. Solicitor apologizes to the Board. She received notice from Steven P. Patrizio, Esquire that he would be attending the hearing as Applicant's attorney. Solicitor reminds the Board that this matter was continued from August 2, 2018, due to failure of notice. Solicitor originally sent the notice instructions to Mr. Patrizio, who was listed as attorney on the application. Mr. Patrizio later withdrew his appearance and Mr. Ceron testified at the August hearing that he was not aware of the notice requirements.

Solicitor marks as Exhibit B-4 the Zoning Hearing Board letter of August 7, 2018 that was sent to Mr. Ceron with the notice instructions. Solicitor advises the Board that Mr. Patrizio had called Solicitor's office to advise that some of the certified notice letters were returned by the Post Office. Solicitor had suggested that Mr. Patrizio resend the notices by regular mail, and to address them to occupant rather than specific individuals. The Certificate of Service is submitted to the Solicitor. Solicitor advises that the copies of the letters are missing. The letters are submitted as well. The Certificate of Services is marked as Exhibit A-2.

Felix Ceron is sworn in. Mr. Patrizio questions the Applicant. The Applicant has been in the restaurant business for 25 years. He has a 15 year lease at the Showcase Plaza. Applicant has made substantial improvements at the subject property. The business is a mix of Mexican grocery store and restaurant. He has six employees. Mr. Patrizio submits 5 photographs. Applicant identifies the photographs as store fronts at and near the subject property, and Solicitor marks them as Exhibit A-3. Solicitor questions where the sign would go. Mr. Patrizio submits another photograph, which has the sign photo-shopped in. Solicitor submits the photo-shopped picture as Exhibit A-4. Ms. Redding questions whether the sign is already up. Applicant advises no, there was a temporary large banner hanging there. Applicant says the banner would come down and the sign would go up. Mr. Patrizio feels the sign is an appropriate size because the business is three store fronts consolidated. Mr. Champion asks how the sign would be lit. Applicant advises the sign would be lit from within. The sign is 4 foot by 20 foot. Applicant testifies that the sign maker supposedly checked the ordinance and said the size was okay. Applicant would not have purchased the sign otherwise. Mr. Patrizio advises that the Applicant is a hard working businessman and this would be a great hardship since the sign was already purchased. Mr. Seymour asks Mr. Gans how the sign compares to the rest of the shopping center signs. Mr. Gans feels the sign is comparable, and asks if the landlord approved the proposed sign. Applicant advises yes, the landlord approved the sign. Mr. Champion asks if there would also be a banner sign at the front entrance of the shopping center. Applicant advises no banner sign. Solicitor asks Mr. Gans to confirm maximum sign size under the new ordinance since he has a codified version. Mr. Gans confirms 10% of the building façade up to 50 square feet for each store front.

The audience is asked if anyone is for or against this application. No one is present.

MOTION Albert Champion motions to close testimony. George Seymour seconds, and all in favor. Albert Champion motions for the hearing for Felix Ceron; Appeal No. 2018-626; Location: 2846-50 Street Road; Tax Parcel: 02-037-005 be approved. George Seymour seconds, and all in favor.

VOTE

Ayes:	Joanne Redding, Albert Champion, Michael Brill, and George Seymour.
Nays:	None
Abstain:	None
Absent:	None

MOTION CARRIED 4-0

ITEM 11 Hearing for James Strange Jr.
 Appeal No. 2018-631
 Location: 4930 Third Avenue
 Tax Parcel No. 02-047-008
 Request: Variance for pole barn to exceed 25% of existing dwelling

DISCUSSION The following are exhibits:

A-1 Application & accompanying documents

- A-2 Certificate of Service
- A-3 5 page plan
- B-1 ZHB letter of hearing to Applicant/applicant's attorney
- B-2 Proof of publication
- B-3 Original proof of posting

James Strange is sworn in. Mr. Strange submits the Certificate of Service. Solicitor advises copies of the letters are missing and Mr. Strange submits them. Certificate of Service is marked as Exhibit A-2. Mr. Strange is requesting a variance to construct a 24 foot by 32 foot pole barn (garage), 10.4 feet to walls. Mr. Strange submits a 5 page plan, and Solicitor marks it as Exhibit A-3. Mr. Champion asks if this is an older house. Mr. Strange advises it is, and it is a rancher. Solicitor asks, and Mr. Strange confirms that it is a single floor. Applicant advises that when you come up the driveway, you will dead end at the garage. Mr. Champion asks Mr. Gans if a front yard set-back is an issue. Mr. Gans advises it is not an issue on this corner lot. Ms. Redding asks the distance from the property line in back, and Mr. Strange advises 15 feet.

The audience is asked if anyone is for or against this application. No one is present.

MOTION Michael Brill motions to close testimony. George Seymour seconds, and all in favor. Michael Brill motions for the hearing for James Strange Jr.; Appeal No. 2018-631; Location: 4930 Third Avenue; Tax Parcel: 02-047-008 be approved. George Seymour seconds, and all in favor.

VOTE

Ayes:	Joanne Redding, Albert Champion, Michael Brill, and George Seymour.
Nays:	None
Abstain:	None
Absent:	None

MOTION CARRIED 4-0

ITEM 12 **Hearing for Anthony D. DeLong**
Appeal No. 2018-632
Location: 3086 Clark Avenue
Tax Parcel No. 02-004-206
Request: Variance to have two dwellings on one property

DISCUSSION The following are exhibits:

- A-1 Application & accompanying documents
- A-2 Certificate of Service
- B-1 ZHB letter of hearing to Applicant/applicant's attorney
- B-2 Proof of publication
- B-3 Original proof of posting

Anthony D. DeLong is sworn in. The Certificate of Service is marked as Exhibit A-2. Mr. DeLong testifies that when he bought the house there were two existing buildings, each with their own kitchens. Mr. DeLong wants to put an addition onto the second dwelling to extend the living room. He needs the second dwelling for elderly and handicapped parents. That is why he specifically purchased the property. Mr. Champion asks if this purchase was a flipped home. Mr. DeLong advises yes, but it already had the two kitchens. Mr. Champion asks Mr. Gans if the property was inspected with the second kitchen. Mr. Gans is not aware, but the Township file shows all required permits. Mr. DeLong advises both buildings were inspected when he got the Certificate of Use & Occupancy. Mr. Champion asks for a copy of the U&O but Mr. DeLong does not have a copy with him. Mr. Gans asks for confirmation of what variances are being requested. Solicitor confirms application is requesting relief from four variances. Ms. Redding asks how long the second building has been there. Mr. DeLong advises over ten years per the real estate listing from the time of his purchase. The Board is concerned how the second kitchen could have been there previously, and wonders if the prior owners took the stove out at the time of inspection and then put it back in after. Mr. Brill is familiar with the property and says the second building was a garage at one point and then later converted to be used as a second residence for about 10-12 years. Mr. DeLong believes the owner prior to the flipper lost the house. The basement had flooded and there was no electricity so the property was vacant for a time, and then in foreclosure. The flipper did not do any major renovations on the second building, only the main house.

The audience is asked if anyone is for or against this Application. James Thackeray is sworn in. Mr. Thackeray lives at 3092 Clark Avenue, and has lived on the street for 47 years. Mr. Thackeray testifies that the garage was turned into a second dwelling approximately 19 years ago for the owners' daughter and twins. In about 2007 the main house was torn down and all the residents moved into the garage with kitchen, until the new house was built. Then they lost the house and it was later sold to the flipper. Mr. Thackeray does not oppose the application.

MOTION Albert Champion motions to close testimony. George Seymour seconds, and all in favor. Albert Champion motions for the hearing for Anthony DeLong; Appeal No. 2018-632; Location: 3086 Clark Avenue; Tax Parcel: 02-004-206 be approved. George Seymour seconds, and all in favor.

VOTE	Ayes:	Joanne Redding, Albert Champion, Michael Brill, and George Seymour.
	Nays:	None
	Abstain:	None
	Absent:	None

MOTION CARRIED 4-0

ITEM 13 **Hearing for Republic Bank**
Appeal No. 2018-633
Location: 2961 Mechanicsville Bank
Tax Parcel No. 02-037-029, 02-037-030 and 02-037-031
Request: Variance for encroachment into rear yard setback

DISCUSSION The following are exhibits:

- A-1 Application & accompanying documents
- A-2 Site plan
- A-3 Tax parcel map
- A-4 Certificate of Service
- A-5 Applicant's packet of exhibits
- B-1 ZHB letter of hearing to Applicant/applicant's attorney
- B-2 Proof of publication
- B-3 Original proof of posting

Applicant's attorney, Robert J. McNelly, Esquire is present. The Certificate of Service is marked as Exhibit A-4. Applicant's engineer, John Tressler, is sworn in. Applicant's land planner, Brian Seidel, is sworn in. Applicant's representative, Sharon Hamel, is sworn in. Mr. McNelly summarizes the requested relief. There is a matter of the interpretation of the buffer language in the Township Ordinance regarding the interpretation of "rear". Mr. McNelly summarizes the witnesses' testimony. Mr. Tressler has been an engineer for 30 years. Mr. Tressler interprets the measurements of the buffer and yard to be combined under the Ordinance. Mr. McNelly feels the Ordinance is ambiguous. As to the variance, once the subject property was rezoned, the building can only sit where it is proposed. Increasing the buffer area increases the relief needed from more variances. The proposed plan is the minimum variance relief. The property is an odd shaped lot, with three lots combined. Encroachment into 95 foot combined setback, not into buffer. Mr. Tressler and Mr. Seidel feel that the plans meet all the criteria for the variance. Mr. McNelly submits the CV for Mr. Tressler and Mr. Seidel, as well as an architectural rendering. Solicitor marks it as Exhibit A-5. Mr. Brill questions the exit onto Mechanicsville Road. Mr. McNelly advises they were asked to put the exit where it is on the plan by the Township Traffic Engineer. It is across from the shopping center access. They originally had it further to the right. Mr. McNelly suggests that PennDot may make an adjustment to it and they would be amenable. The hours of operation are Monday through Friday, 7:30 a.m. to 8:00 p.m.; Saturday 7:00 a.m. to 6:00 p.m.; and Sunday 11:00 a.m. to 4:00 p.m. The ATM is open 24 hours in the lobby. Mr. Brill asks who owns Republic Bank. Mr. McNelly advises the same people as Commerce Bank. They have a lot experience in banking. Mr. Champion asks what the distance between banks are. Ms. Hamel advises a good 5 mile radius between bank locations.

The audience is asked if anyone is for or against this Application. William McHale is sworn in. Mr. McHale resides at 2925 Mechanicsville Road, and he is against the project because of traffic concerns. Mr. McHale reviewed the plans and after hearing the testimony, and from the Board, he feels that this project may be better than other possible commercial projects that may go on the property if this one doesn't get approved.

MOTION George Seymour motions to close testimony. Albert Champion seconds, and all in favor. George Seymour motions for the hearing for Republic Bank; Appeal No. 2018-633; Location: 2961 Mechanicsville Bank; Tax Parcel: 02-037-029, 02-037-030 and 02-037-031 be approved. Albert Champion seconds, and all in favor.

VOTE Ayes: Joanne Redding, Albert Champion, Michael Brill, and George Seymour.
 Nays: None
 Abstain: None
 Absent: None

MOTION CARRIED **4-0**

Mr. Gans requests clarification, and Solicitor confirms the relief granted was the requested variance, and nothing to do with the interpretation.

ITEM 14 **Hearing for Bensalem 21, LLC**
 Appeal No. 2018-634
 Location: 1301 Bristol Pike
 Tax Parcel No. 02-029-474
 Request: Variance for impervious surface coverage to construct building

DISCUSSION The following are exhibits:

- A-1 Application & accompanying documents
- A-2 Site plan
- A-3 Attorney Certificate of Service
- A-4 Applicant engineer Certificate of Service
- A-5 C.V. of applicant engineer
- B-1 ZHB letter of hearing to Applicant/applicant's attorney
- B-2 Proof of publication
- B-3 Original proof of posting

Applicant's attorney, Gregg Adelman, Esquire is present. Mr. Adleman's Certificate of Service, as well as the engineer's Certificate of Service are handed up, and Solicitor marks them as Exhibit A-3 and A-4, respectively. Applicant's expert, Michael Jeinter, P.E., is sworn in. Mr. Jeinter's C.V. is handed up, and Solicitor marks it as Exhibit A-5. Mr. Adleman's explains that this request is for a renewal of a previously granted variance in 2008. In 2010, the plan had been revised for use as a beauty school, and the building was enlarged and parking added. At that time 60.84% was approved for impervious surface coverage. The beauty school however did not proceed, and the variance expired. They are now back to the original plan and are requesting only 60% impervious surface coverage. Now the plan has more control over the storm water management with the decrease in the requested amount of impervious surface coverage.

MOTION Albert Champion motions to close testimony. George Seymour seconds, and all in favor. Albert Champion motions for the hearing for Bensalem 21, LLC; Appeal No. 2018-634; Location: 1301 Bristol Pike; Tax Parcel: 02-029-474 be approved. George Seymour seconds, and all in favor.

VOTE Ayes: Joanne Redding, Albert Champion, Michael Brill, and George Seymour.

Nays: None
Abstain: None
Absent: None

MOTION CARRIED 4-0

ITEM 15 CORRESPONDENCE – None

ITEM 16 ADJOURNMENT

Mr. Champion made a motion to close the meeting. Mr. Seymour seconds, and all are in favor.

Meeting adjourned at 9:20 P.M.

Court Reporter: Kim Bursner

Respectfully submitted by Laura Rech