

Minutes of the
ZONING HEARING BOARD
Regular Meeting
May 3, 2018

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

ITEM 1 Meeting opened at 7:00 P.M. with the Pledge of Allegiance

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

ITEM 3 Approval of April, 2018 Minutes

ITEM 4 **Continued hearing for Carl Schneider**
Appeal #2018-605
Location: 962-968 Bristol Pk
Tax Parcel: 02-029-113 & 02-029-112
Request: Variances to create lot line change.

DISCUSSION The following are exhibits of the application;

- A-1 Application & accompanying documents
- A-2 Lot-line Relocation Plan
- A-3 Sit Photographs
- A-4 Email Confirmation of Adjoining Neighbor's Non-opposition
- A-5 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
- B-4 Amended Proof of posting

Carl Schneider is sworn in and is represented Shawn Ward, Esquire. The Applicant owns two properties on Bristol Pk, 962 and 968 Bristol Pk. 968 Bristol Pk is a rental residential property. 962 Bristol Pk is the Applicant's business. He has owned the properties since 1974. It is an air conditioner/heating business. Applicant is requested a variance for a relocation of a lot line change. 968 Bristol Pk is a non-conforming lot. The rear half of 968 Bristol Pk is currently being used for the business. The Applicant resides behind property at 1030 Buttonwood Ave. The Shuberts are the neighbors that would be affected by this lot line change, but are not opposed as seen in email in Exhibit A-4. There is an existing shed on 968 Bristol Pk property. The Applicant states this can be removed, but they would like to keep it. There is no change to the impervious coverage. Both properties exceed the required 60% impervious coverage, but this is existing. The Applicant wants to make sure there are no issues for his family in the future. The requested variance will not alter the characteristics of the neighborhood. Mr. Schneider adopts the testimony as his own. The property is zoned GC commercial. The driveway is not accessible to the back of the property. Board has issues if in the future, the owners may want to use it as a commercial use, but there wouldn't be parking for customers. Applicant states there is off street parking on Buttonwood Ave. Employees of Custom Air park there. Properties are two different deeds and they never merged. Took a portion of 956 Bristol Pk from the neighbor's property around 1995. The Applicant has been living and doing business in the Bensalem a long time. Board has concerns about the property being taken down to a 3,000 feet lot in the future. Applicant's Attorney recommends adding a restriction to the deed. Solicitor asks if an easement was an option. Applicant's Attorney states he would rather not because it would be difficult to sell. Board suggests to push back the rear fence 10 feet. Applicant states it would affect parking in the rear.

The audience is asked if anyone is for or against this application. No one is present. Applicant's Attorney states his client just wants to firm up what is already existing. Board suggests moving the lot line in the rear lot back, so there is a 35 foot rear yard for the residential dwelling. The rear yard is 23 by 12 feet. By doing this, the Applicant would be eliminating two variance requests. The rear yard variance and the rear shed variance.

MOTION Mr. Champion motions to close testimony, Mr. Seymour seconds. Mr. Champion motions for the hearing for Carl Schneider; Appeal #2018-605; Location: 962-968 Bristol Pk; Tax Parcel: 02-029-113 & 02-029-112 be approved be approved for the lot line change, the rear yard and rear yard shed is withdrawn, and have a rear yard of 35 feet, George seconds, Mr. Brill favors, Joanne nays.

VOTE

Ayes:	Mr. Champion, Ms. Domanico, Mr. Brill, Mr. Seymour
Nays:	Ms. Redding
Abstain:	None
Absent:	None

MOTION CARRIED

4-1

ITEM 5

Continued hearing for Patrick Franks

Appeal #2018-604

Location: 2145 Green Ave

Tax Parcel: 02-039-179

Request: Variance for impervious surface coverage and maximum size for accessory structure.

DISCUSSION Solicitor states she received a request for a continuance on April 30, 2018 for 30 days from Attorney, Shawn Ward, so client could continue working on the lot line change issues. Applicant waives any time period constraints. The Letter is marked as Exhibit A -5. Attorney is present and states if there are changes made to the application, he will send out new notices.

MOTION Mr. Champion motions for the hearing for Patrick Franks; Appeal #2018-604; Location: 2145 Green Ave; Tax Parcel #02-039-179 be continued to June 7, 2018, Mr. Seymour seconds, and all favor..

ITEM 6

Continued hearing for 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 The following are exhibits of application;

- A-1 Continuance request correspondence
- A-2 Application & accompanying documents
- A3 February 28, 2018 continuance request
- A-4 Letter waiving time constraints
- A-5 ZHB Plan
- A-6 Certificate of Service
- A-7 Approved Plan from February 2010
- A-8 Bensalem Township Solicitor letter from February 27, 2010
- A-9 Review letters from June 2008
- A-10 Review from May 14, 2008 done by Mr. Gans' office
- A-11 Agreement of Sale

- B-1 ZHB letter of hearing to Applicant/applicant's attorney
- B-2 Proof of publication
- B-3 Original Proof of posting
- B-4 2016 Mar Mar Builder's plan to build twin homes

Applicant's Attorney is present. Mark Havers, the Engineer, is sworn in. Mr Gans and Attorney had conversation about this application. Back in February 2010, this property was subject of an 8 lot subdivision approval. The approved plan from February 2010 is marked as Exhibit A-7. The letter from the Township Solicitor from February 27, 2010 is marked as Exhibit A-8. Prior to approval, review letters were issued in June of 2008. They were issued by the building planning commission, which is marked as Exhibit A-9. A review was complete on May 14, 2008 by Mr. Gans' office marked, which correspondence is marked as Exhibit A -10. Zoning was issued as R-1 residential district in review. Property was not zoned R-1 then or now. References Exhibit A7 stating this did not require any variances. The property was sold to Applicant. The Agreement of Sale is marked as Exhibit A-11. This identifies the property as R-1. Applicants wanted to start construction, then discovered it was R-A1. Application then submitted application, but it was rejected by the Township. The Applicant now needs relief. Properties have not been built. Spent significant money to purchase property. Everyone acted in good faith, was just viewed incorrectly. Property has not been rezoned. Plan is slightly different from 2010. Brought the line from the wooded area out. Applicant relied on earlier approvals, but came upon the information of the incorrect zoning district, so then submitted this request. The Board states the plan from 2010 is not valid and the Applicant would still need variances for construction. The Board believes the Applicant would have had issues when applied to get building permits. Mr. Havers states he reviewed all documents related to this application. The original plan had 8 lots, loaded to one side, small stormwater facility, private driveway, came to a cul-de-sac, had wooded area, about 3 and half acres, 250 feet of frontage on Byberry road, and an L shaped lot. The minimum lot width is 65 feet and then range from 128 feet to 95 feet. There is a 50 feet wide street line. RA1 district minimum is 20,000 feet and R1 is 12,000 feet. The new plan has a private drive, 20 feet from the street line, 30 feet from the right of way, and the front yard from Byberry Rd is 35 feet. \$75,000 has been billed to the Applicants from the Engineering company. \$400,000 total has been spent between purchase and all the planning. The Board asks if he was the designer of the 2010 plan, but Mr. Havers states he was not. He states he is familiar with this location. There are 7 parcels, but Mr. Havers does not know the size of the parcels. Ms. Redding states they are large lots and does not understand the retention basins from 2010 plan. The Applicant purchased the property in 2014. Mr. Champion reviewed and stated the 2010 plan was approved with conditions of complying with provisions of the application. The 11 revisions were not complete and approved. Attorney states based on records, it was not going to be discovered it was zoned wrong and no one knew until he raised an issue a few weeks ago. Ms. Redding believes the plan may be too dense. Attorney states the Applicant has spent unrecoverable funds, which may have to lead to them taking this matter further. Mr. Champion states the properties on the new plan are below half acre lots and will alter characteristics of the neighborhood. The reasonable use of the property may be 2-3 properties, but 8 properties is not.. Applicant and the Board disagree on reasonable use.

The audience is asked if anyone is for or against this application. Judy Cost is sworn in. She states she sold this property to the Applicant. She inherited the property in 1980. It's 7 acres total. The Deed is dated in January 2014, and she states he did sign it even though she doesn't recall. The previous plan had larger lots. The lots will back up to her property. She states she never would have sold the property if she had known it would be built up this way. The 2016 Application by Mar Mar 8 twin homes plan is marked as Exhibit B-4. Richard Daguanno is sworn in. Darlene Daguanno is sworn in. Mr. Daguanno states the original plan was approved and they were told not to worry because the property would be sold to another. Applicant has already went in three times and cleared 70% of the woodlands without permits. Two story properties will not fit in the neighborhood. Most properties have about an acre. There is water in the back area of the property. John Fluharty is sworn. He resides at 1199 Alberta Ave. He also states the Applicant took down many trees already and he concerns about storm water management.

5 minute recess.

Attorney requests continuance to June 7, 2018. George motions to continue to June 7, 2018, Mike seconds, all favor.

MOTION Mr. Champion motions for the hearing for Mar Mar Builders, Inc.; Appeal #2018-602; Location: 1186 Byberry Road; Tax Parcel: 02-074-110 be continued to June 7, 2018, Mr. Brill seconds, and all favor.

ITEM 7 **Hearing for Rex and Lisa Alfes**
Appeal #2018-613
Location: 2623 Kiansas Ave
Tax Parcel: 02-039-023
Request: Variance for garage to exceed 25% of principal structure.

DISCUSSION The following are exhibits of application;

- 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

Rex Alfes is sworn in. The Applicant is requesting to build a garage in rear of the yard. The building would exceed 25% of the principal structure. The proposed garage is 20 by 32 feet. There is an existing garage pad that is 24 by 24 feet, but this will be removed. Grass will be planted. The proposed garage will be a wood frame structure and single floor. It will not exceed

35 feet. The interior walls are 10 feet. The previous garage was 25 by 25 feet. The house was built 11 years ago. The peak will be 15 feet from front elevation with a 4 foot slope.

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

MOTION Mr. Seymour motion to close testimony, Mr. Champion seconds, and all favor. Mr. Seymour motions for the hearing for Rex and Lisa Alfes; Appeal #2018-613; Location: 2623 Kiansas Ave; Tax Parcel: 02-039-023 be approved, Mr. Champion seconds, and all favor.

VOTE

Ayes:	Mr. Champion, Ms. Redding, Mr. Brill, Ms. Redding, Ms. Domanico
Nays:	None
Abstain:	None
Absent:	None

MOTION CARRIED 5-0

ITEM 8 **Hearing for Bank of America**
Appeal #2018-614
Location: 1305 Bristol Pk
Tax Parcel: 02-029-474
Request: Variance to construct walk-up ATM of principal structure.

DISCUSSION The following are exhibits of application;

- A-1 Application & accompanying documents
- A-2 8 page site plan
- A-3 Smaller version of 29 page spec plan
- A-4 Certificate of Service
- B-1 ZHB letter of hearing to Applicant/applicant's attorney
- B-2 Proof of publication
- B-3 Proof of posting

Paul Mutch is sworn in. He works for Stonefield Engineering. Applicant is proposing a walk up ATM in an existing shopping center. This Applicant came in August and took the feedback from the Board and made changes. The new plan moved it to the corner space, which doubles the setback from Bristol Pk. 35 feet setback from Bristol Pk was requested before. Now the plan complies with setback requirements, which is 77 feet from the line. The ATM will sit on the hill. A sign that meets the ordinance is added. This is visible going west to east. Everything else remains the same as the previous plan. The ATM will be on a concrete pad. It is 9 and half feet and 4 feet wide. The lighting will have 3 area lights in addition to the landlord

lighting. The Applicant eliminated removing of the trees and will not have a fence. The front yard setback variance for signing permitted is 10%. The sign is 8 square feet, which exceeds variance. It's a small sign. There is an illumination lighting variance requested. The required 1 foot of candle light exceed the maximum ordinance. Light will not affect drivers. The variance that was in question is section 232-714(b)(2)(IV)(d) is a low traffic use. Mr. Mutch states the Verizon store has a lot of unutilized parking. A drive-thru ATM only requires a 3 car que. The Board has issues with safety and traffic. Mr. Mutch states Bank of America does take safety very seriously, which is why they add bright lighting and cameras. The Board states there are close banks to this location. Mr. Mutch states a drive-thru ATM takes up more room. There are about 3 or 4 walk-up ATMs in Bucks County. Mr. Mutch has never have seen a location not be successful and he has had this client for about 10 years.

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

MOTION Mr. Champion motions to close testimony, Mr. Seymour seconds, and all are in favor. Mr. Champion motions for the hearing for Bank of America; Appeal #2018-614; Location: 1305 Bristol Pk; Tax Parcel: 02-029-474 be approved, Mr. Seymour, Ms. Domanico, Mr. Brill and Ms. Redding nay.

VOTE

Ayes:	Mr. Champion
Nays:	Ms. Redding, Mr. Seymour, Ms. Domanico, Mr. Brill
Abstain:	None
Absent:	None

MOTION CARRIED 4-1

ITEM 9 **Continued hearing for Nikolas and AMalia Haralambous**
Appeal #2018-6-8
Location: 6405 Brandywine Ct
Tax Parcel: 02-091-179
Request: Variance for setbacks for deck and impervious surface coverage covers on property.

DISCUSSION Nikolas and Amalia Haralambous are sworn in. The Solicitor reminds the Board wanted the Township to inspect to find out the exact impervious surface issues. There was also an unhappy neighbor at the last hearing. A memo was submitted on May 3, 2018 from the Township to the Board, which shows a calculation of 2,164 square feet of impervious coverage, which is 69.8 % exceeding the impervious surface. 1,860 square feet is the required impervious surface. Solicitor marks the Memo as Exhibit B-5. The Applicant states that Bensalem has an average of 48 inches of rain per year. On April 16, 2018, Bensalem got 2 inches of rain and the neighbor's yard flooded. This had nothing to do with the subject property states the Applicant. Mr. Haralambous also states he could not go outside when he was younger because it was wet, so when he got older he made floating deck, so mother could go enjoy the

rear yard. There were no issues in the past with the neighbor and he just recently complained about this. There is a 9 feet slope down to the yard. Applicant states he does not want to remove any stone work or pavers. Photos of 6401 Brandywine Ct is marked as Exhibit A-4. He believes the structure added to the house benefited the neighbor's water issue. Pavers were added in 2010. No changes have been made since the last hearing. There are 27 square feet areas that hold planters that can be removed. Township Engineer says there are storm water management issues throughout this area. Since this property is at the bottom of the hill, it gets a lot of water. Applicant states the backyard as landscape stone and it's supposed to be good for water management. Applicant shows a picture of the neighbor that has full yard of concrete and stone. The Board recommends the Applicant and the neighbors work together to help the water issue.

The audience is asked if anyone is for or against this application. No one is present. The aerial view photo is marked as Exhibit A-5. The Applicant agrees to take out some pavers by the fence.

MOTION Mr. Champion motions to close testimony, Mr. Seymour seconds, all are in favor. Mr. Champion motions for the hearing for Nikolaos and Amalia Haralambous; Appeal #2018-608; Location: 6405 Brandywine Ct; Tax Parcel: 02-091-179 be approved., Mr. Seymour seconds, and all favor.

VOTE

Ayes:	Mr. Champion, Ms. Redding, Mr. Seymour, Ms. Domanico,
Nayes:	Mr. Brill
Abstain:	None
Absent:	None

MOTION CARRIED 5-0

ITEM 10 **Hearing for McGillin Architecture, Inc.**
Appeal #2018-615
Location: 2544 Bristol Pike
Tax Parcel: 02-062-366
Request: Variance for height of fence.

DISCUSSION Solicitor states she received correspondence requesting continuance from attorney for this application. The architect did not made proper service required by code and would like to request a continuance of 30 days. He also waives any time constraints.

MOTION Mr. Champion motions for the hearing for McGillin Architecture, Inc.; Appeal #2018-615; Location: 2544 Bristol Pike; Tax Parcel #02-062-366 be continued to June 7, 2018, Mr. Seymour seconds, and all are in favor.

ITEM 11 **Continued hearing for Michael R. Nugent**
Appeal #2017-567
Location: Clive Ave
Tax Parcel: 02-075-047
Request: Variance to use lot for commercial parking.

ITEM 12 **Continued hearing for Michael R. Nugent**
Appeal #2017-568
Location: 3259 Clive Ave
Tax Parcel: 02-075-049
Request: Variance to allow natural state to be less than 45%.

ITEM 13 **Continued hearing for Michael R. Nugent**
Appeal #2017-569
Location: 3242 Moore Ave
Tax Parcel: 02-075-056
Request: Variance to use lot for employee parking.

*** Items 11, 12, and 13 are heard collectively.**

DISCUSSION Chris Stewart, attorney for the Applicant, is present. Michael Nugent is sworn in. Mr. Stewart states the Board requested the Applicant to add landscaping of a 20 foot buffer, buffer for more road, and continue the discussions with the neighbors. Mr. Stewart states his client has done all of these things. The Proposed Landscaping Plan is marked as Exhibit A-7, 12 reasons proving Leyland Cypress Trees are the best is marked as Exhibit A-8 (5 pages), and White Cedar 3 page packet is marked as Exhibit A-9. A tree line was added to the plan along the left side of Clive Ave to Moore Ave. A tree line buffer along the front area of Moore Ave was added. These trees grow about 25-40 feet tall. There was a residence on #569 with a driveway. This property has been demolished. Next to business building will be employee parking. The other back area will be for storage. The heaviest equipment would be a backhoe and there will be no big trucks. The purpose of this project is to get the area neater looking. The highest weight equipment will be on #568. There's about 6 or 7 pieces of equipment. There will be 20 parking spots for employees. On #567, construction material will be held here and there will be access to the other two lots. The buffer on the right side is of natural state and is about 10 -15 feet wide, 150 feet long. There is a 20 feet buffer next to the residential properties on the left side. The trailer is vacant as of April 25th, 2018 on #567. Pursuant to PA law, the tenant has 30 days to remove items in in the trailer. #568 and #569 properties are clear. Solicitor states there may be impervious surface issues that may come up later and the Applicant needs to provide stormwater management.

The audience is asked if anyone is for or against this Applicant. James Shelly Jr. is sworn in. He is the tenant from the trailer. He is against this application. Mary Peters is sworn in. She resides at 3243 Moore Ave. Ms. Peters is against this Application and would like a privacy fence with trees along front of the property. She would also like a fence in the middle of property to block the noise. Ms. Peters requests different types of trees that grow faster. Angela Daley is sworn in. She resides at 3168 Moore Ave and requests a around the property due to having a young child and the trucks being dangerous. Jill Johnson is sworn in. She lives on Clive Ave. She states there are stormwater management issues and is against this Application. Bud Smith is sworn in. He has issues with the loud equipment and is against this Application. John Brodecki is sworn in. He lives to the left side of the property. Mr. Brodecki requests the trees not to be right next to the fence.

Mr. Nugent states he wants to get the cars off the street and is willing to add a fence as well in front of the property. The Township requests to get a plan together by an architect and submit it before the next hearing. The Applicant requests a continuance to June 7, 2018.

MOTION Mr. Champion motions for the hearings for Michael R. Nugent; Appeal #2017-567, 568, 569; Locations: Clive Ave, 3259 Clive Ave, 3242 Moore Ave; Tax Parcels: 02-075-047, 02-075-049, and 02-075-056 be continued to June 7, 2018, Mr. Brill seconds, and all favor.

ITEM 14 CORRESPONDENCE - None.

ITEM 15 ADJOURNMENT

Meeting adjourned at 10:30 P.M.

Court Reporter: Kim Bursner

Respectfully submitted by Danielle Campbell