



LOWER NAZARETH TOWNSHIP ZONING HEARING BOARD

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Zoning Hearing Board
Manouel Changalis, Chairman
Michael Gable, Vice Chairman
Zachariah Cobrinik
Darin Lueders, Alternate
Robert Hicks, Alternate

Zoning Hearing Board Minutes March 27, 2012

Chairman Manny Changalis called the meeting to order at 6:30 p.m. Also in attendance: Board Member Mike Gable and Zach Cobrinik; Alternates Darin Lueders and ~~Bob Hicks~~; Zoning Hearing Board Solicitor, April Cordts; and Lori Seese, Planning & Zoning Administrator. ① Zach Cobrinik

MINUTES

② Darin Lueders

Approval of the February 28, 2012 minutes was moved by Mike Gable and seconded by Zach Cobrinik. The motion carried unanimously.

There were no items of discussion under CORRESPONDENCE.

HEARINGS

ZA2012-02 – Gemstone Resources, L.P. & Wallingford One Holdings, L.P.

The advertisement for the hearing was read aloud and all parties who would testify in the hearing were sworn. Present for the Application: Richard Crawford, Mercer Sign Consultants, and for the Applicant, Jerry Bermingham, Gemstone Resources.

Mr. Crawford provided testimony regarding the approval granted under Appeal #ZA2009-06 and the change they are proposing to the existing sign. They propose to add a 30 s.f. sign to the bottom of the existing sign to accommodate a new tenant, "PetSmart". Exhibits entered in the record:

A-1 - Modification of Pylon Sign, "Proposed Change";

A-2 - Photo of sign without new sign superimposed, "Existing Conditions".

In response to the request to amend the previous appeal, April Cordts advised that there is no legal precedence to amend the previous appeal since it has already been granted and all time periods to appeal the decision have expired.

Mr. Bermingham provided testimony regarding the proposal. This was the only option available since they cannot change the sign in the field. They have contractual obligations to the current tenants already advertised on the sign. Lastly, the topography of the lot presents a visual problem since the physical location of the stores sit higher than the Route 248/Corriere Road intersection and sit back a far distance from the street.

Board Deliberation

Zach Cobrinik inquired about potential wind resistance since it will only be attached on the top. Lori Seese advised that any sign permit application must include proof of compliance with 90 mph requirements per the Building Code so this will get addressed. April Cordts inquired if they could guarantee they would not be back again to request another variance. Mr. Crawford stated that they could not physically add anything

more to this sign. Mike Gable suggested that they make an aesthetic change to the sign to make it more symmetrical.

There were no comments Courtesy of the Floor.

The motion to close testimony was moved by Mike Gable and seconded by Zach Cobrinik. The motion carried.

Motion by the Board

The motion to approve the dimensional variance to increase the area of the existing 234 s.f. sign to 265 s.f., with the request that they provide changes to the pylon sign to adjust the symmetry was moved by Mike Gable and seconded by Zach Cobrinik. The motion carried unanimously.

ZA2011-10 – Lawrence Marra, Jr. – continuance from January 10, 2012

As a matter of housekeeping, discussion took place to determine which Board members were able to vote on this application, leaving voting members at Mike Gable, Zach Cobrinik, and Darin Lueders. Manny Changalis was only present for a portion of the first hearing therefore he cannot vote. Bob Hicks was present for the entire first hearing however he is not present this evening so he will not be able to vote if he is present in the future.

Present for the Application: Applicant, Lawrence Marra, Jr.; Property Owner, Denise Lipsky, and Attorney, Joseph Piperato.

Mr. Piperato introduced himself as the new attorney on this application. Mr. Piperato also announced that they were withdrawing the variance request for Section 1502.A.22, Conversion of a Residential Dwelling to Increase the Number of Dwelling Units. It is the Applicants intention to maintain only (1) residential unit and the business.

Denise Lipsky provided testimony regarding the land development plan approved for these properties, entered in the record as Exhibit #A-7. This plan was dated October 6, 1997, last revised May 7, 1998, and recorded on June 22, 1998. The plan depicts the proposed house for an auto sales office. The house originally had a 2-car garage; however 1 bay was converted into office space for the auto sales office. The house remained as a residence.

Special Exception approval was granted for this property in 1997. The Order for Appeal #1997-08 was entered into the record as Exhibit #A-8. Vehicles for sale were always located on 592 Nazareth Pike until approximately one year after Jerry Lipsky's death (January 7, 2002). The house continued as a residence and the garage used as storage until occupied by LMS Design, a sign business. Mrs. Lipsky has continued to try to sell or market the property for many years. Letters from parties she made inquiries with where entered into the record:

Exhibit #A-9 – M&R Motors;

Exhibit #A-10 – Theodore R. Mayo;

Exhibit #A-11 – Robert Bennett, Bennett Toyota;

Exhibit #A-12 – M&M Motors; and

Exhibit #A-13 – John Fulmer.

Mrs. Lipsky also recalls making inquiries with Kurt Koch, Milham Toyota and Joe Straub. She also recalls other parties interested in storing tractor trailer trucks and an inquiry by Colonial IU 20 for storage of buses; however she did not entertain these inquiries because she wanted to keep it as an auto sales facility. The following exhibits were entered into the record:

Exhibit #A-14 – Zoning Use & Occupancy Permit for Bills Service, LLC, which is presently occupying the building on 592 Nazareth Pike. The permit is dated March 15, 2012;

Exhibit #A-15 – Use & Occupancy Permit for the Amish Marketplace, dated June 7, 2003, for Parcel #K7-21-2B, 594 Nazareth Pike;

Exhibit #A-16 – Lease Agreement with Amish Marketplace;

Exhibit #A-17 – Lease Agreement with Bills Service, LLC, dated January 1, 2011, with an option to renew for one year;

Exhibit #A-18 – Parcel ID information from the Northampton County Public Records website, www.ncpub.org, for 594 Nazareth Pike, depicting a land use classification of “Commercial” and “mixed office and apartments”;

Exhibit #A-19 – Parcel ID information from www.ncpub.org for 592 Nazareth Pike.

Testimony continued regarding the parking requirements for the proposed use, pursuant to Article 17, Section 1701.E. of the Zoning Ordinance. Pursuant to the requirements outlined in the Zoning Ordinance, they would need 1 space/15 vehicles plus 1/employee or a minimum of 5 spaces, and 2 spaces per dwelling unit. On 594 Nazareth Pike, they would need 7 spaces and on 592 Nazareth Pike, 9 spaces would be required. None of the required parking spaces would be used for cars for offered for sale.

Mrs. Lipsky testified it is her intention to sell 594 Nazareth Pike to Mr. Marra and retain ownership of 592 Nazareth Pike. She also stated she is willing to record an easement for customer parking as well as for vehicle display to Mr. Marra. Mrs. Lipsky stated there would be 25 cars for display however April Cordts countered that previous testimony had indicated 15-20 cars. Mr. Piperato stated that Mr. Marra would clarify that number under his testimony later.

Zach Cobrinik inquired about the how the approved plan depicted the use of the dwelling. The plan states “Proposed Office for Auto Sales”. Discussion followed whether that meant the whole building or just a portion of the dwelling.

Zach also asked if the lease to the Amish Shed business was for the entire property. Mrs. Lipsky stated it was not, and Exhibit #A-16 was examined for clarification. It was determined that they are occupying an irregular shaped area as depicted on the exhibit attached to the agreement. They are not occupying any area outside the fence.

Lori Seese entered into the record Zoning Exhibit #Z-2, which is an April 27, 1998 review letter by Keystone Consulting Engineers. In the letter, Mr. Kortze wrote, “The submission also indicates that the applicant has purchased an adjoining residential property for use as the auto sales office. This property, shown as Tract #2, is 0.364 acres in size.” The question about whether there was intention to convert the entire building was discussed.

Lori Seese also entered into the record, Zoning Exhibit #Z-3, which is the entire Order & Opinion for Zoning Appeal #1997-08.

Mr. Piperato entered Exhibit #A-20, a plan depicting the proposed Addition for Sales Office. Mrs. Lipsky stated the intention was to convert one car bay into an office.

Zach Cobrinik posed the question whether the person who approved the plan knew that the use had become mixed?

Lori Seese confirmed with Mrs. Lipsky that her son, Jason, had lived in the dwelling at 594 Nazareth Pike for a period of time.

April Cordts made reference to Paragraph #10 of the 1997-08 Opinion which states, “Mr. Musselman described the proposed development would include a 24 foot by 28 foot office building located close to Route 191 that would house the offices for the sales personnel of the auto sales business.” It was confirmed that a plan in the property file for 592 Nazareth Pike depicts a building with these dimensions. Joe Piperato referred to Note #7 on the recorded plan which states, “The Lower Nazareth Township Zoning Hearing

Board granted to Gerald Lipsky, the owner zoning approval for the sale of automobiles, which is permitted by special exception use with in a General Commercial zoning district on September 23, 1997, Appeal No. 97-08." The question was posed how did the garage get converted and not the whole building?

Zach suggested that in light of the hour that the Board adjourns to have time to review Board meeting minutes and the 1997-08 Order and Opinion. Mr. Piperato asked that he be able to finish up with Mrs. Lipsky and then to Mr. Marra before adjourning.

Mrs. Lipsky stated that within one year of Mr. Lipsky's passing, she contracted the lease with Amish Sheds, and they have always had a year-to-year to lease after the first year. Mrs. Lipsky testified that prior to Bill's Automotive, she rented the space to "Ralph's Automotive" and "John's Automotive". In this period of time, she has been trying to lease the property for auto sales. April Cordts asked if Mrs. Lipsky could produce previous leases for the tenants prior to Bill's Automotive. Mrs. Lipsky stated she would try to find them.

The question of restroom facilities for the office was discussed. When LMS Design occupied the office space, she had to use the restroom facilities at 594 Nazareth Pike since her office space does not have restroom facilities.

Zach Cobrinik stated that so far it appears is was approved as an owner office.

Lawrence Marra began to present testimony. He is the proposed purchaser of 594 Nazareth Pike. He intends to use both garage bays for an auto sales office and intends to obtain an easement to use the parking lot on 592 Nazareth Pike for auto sales.

Exhibit #A-21, Development Sketch, dated March 27, 2012 was entered into the record.

Mr. Marra stated that he has never operated a car sales lot. He lives approximately 2 miles away on Township Line Road.

Exhibit #A-22, exterior photos of the garage on 594 Nazareth Pike, was entered into the record. Mr. Marra described the physical condition of the garage.

Mr. Piperato queried Mr. Marra about whether he would be able to comply with the requirements of Article 15, Section 1052.a.9, Auto, Boat or Manufactured Home Sales. Mr. Marra does not intend to have any employees and does not propose any additional construction or lighting. Mr. Marra testified that he will have a maximum of 18 cars. The business will operate 10 a.m. to 3 p.m., 6 days per week. He does not intend to install any additional exterior lights. He does not intend to sub-let the auto sales business.

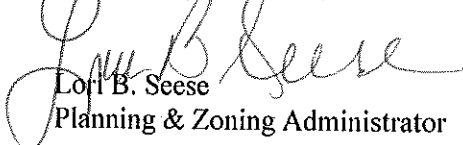
Regarding the use of the house, Mr. Marra intends to use the first floor for the office and the second floor will remain as an apartment. Discussion began regarding the expansion of the office space.

Board Member Mike Gable had to leave the meeting unexpectedly and testimony ceased at 9:25 p.m.

Discussion followed about when the hearing would be continued since there was a quorum problem with the April 17th date. Lori Seese will coordinate a new meeting date, re-advertise, and notify the adjoiners of the new hearing date.

The meeting adjourned at 9:30 p.m.

Respectfully submitted,


Lori B. Seese
Planning & Zoning Administrator

/lbs