



# LOWER NAZARETH TOWNSHIP

## ZONING HEARING BOARD

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### **Zoning Hearing Board**

Manouel Changalis, Chairman  
Steven Nordahl, Vice Chairman  
Michael Gaul, Board Member  
Brian Fenstermaker, Alternate

April Cordts, Esq., Solicitor

## **Zoning Hearing Board Minutes** **November 23, 2021**

Chairman Manny Changalis called the meeting to order at 6:30 p.m. Board Members Mike Gaul and Steven Nordahl; Alternate, Brian Fenstermaker; Zoning Hearing Board Solicitor, April Cordts; and Lori Seese, Planning & Zoning Administrator were all in attendance.

### **MINUTES**

Approval of the November 4, 2021 minutes was tabled to the next meeting.

### **HEARINGS**

#### **ZA2021-09 – Franklin BioScience – NE, LLC**

The advertisement for the hearing was read aloud and all parties who would testify in the hearing were sworn. Present for the Application: Erich Schoch, Esq. and Justin Carey, Franklin BioScience, Applicant.

Attorney Schoch provided an explanation on why the application is before the Zoning Hearing Board. Justin Carey provided testimony regarding the Medical Marijuana Dispensary use, site information, etc. They are presently occupying tenant space at 3812 Easton-Nazareth Hwy, Suite D. Attorney Schoch presented the following exhibits:

Exhibit A-1, approval by the LNT BOS w layout for space

Exhibit A-2, Lease for Suite D with amendment to expand into the adjoining space, Suite E

Exhibit A-3, Overall Site Plan

The prior tenant in Suite D was a photography studio. They intend to take over the space occupied by SaladWorks in Suite E. The Indian restaurant is tenant but is restaurant is not open. Mattress Firm is going in the space formerly occupied by CiCi's Pizza.

Exhibit A-4 – License to Operate issued by the State

They will have 10-11 employees.

Attorney Schoch reviewed compliance with Article 15 Section 1502.A.F, Medical Marijuana Dispensary with Justin Carey.

Exhibit A-5 – Delivery Area Security Map

Exhibit A-6 – Floor Plan 5958 s.f. Existing plan has 378 s.f. for inventory and 738 s.f. waiting area.

Exhibit A-7, Sample Floor Plans from existing facilities from Hazelton, Pa; and Erwin, PA. The ratio of lobby and vault area is more balanced. Stores are larger than 3,000, larger than 500 s.f. inventory area.

Justin said a valid prescription is required to obtain Medical Marijuana from their facility. Seventy-five percent of the customers come in knowing exactly what they want. Their time in the building is limited.

They also have a store in Lower Saucon Township, Northampton County. In Lower Saucon, a Medical Marijuana Dispensary is regulated as a Pharmacy.

Exhibit A-8, Examples of Medical Marijuana Ordinances from other municipalities, specifically the City of Easton, City of Bethlehem, Salisbury Township, and Williams Township were submitted. Attorney Schock compared the way those municipalities regulate the use and area.

The area of Hazelton and Erwin stores was discussed. The typical target area is 4,000-7,000 s.f. Out of all their 15 stores, they have only one other store which is the same size as the Lower Nazareth Township store and that is because the building itself is smaller.

Mike Gaul asked why they need to expand.

Justin Carey explained that they bottle neck at 3,000 s.f. due to the number of products they can flow out and the number of patients they can see in an hour. Efficiency is more the concern. Waiting Area is much more than they need. There is a limitation to the number of Point-of-Sale (POS) area. If they increase the number of cash registers, they can move people thru quicker. They want to decrease the size of the waiting room.

There are approximately (6) dispensaries in Northampton County at this time. The next closest one is 20 minutes away.

Steve Nordahl inquired about the number of POS locations. Justin said it would be 17 with an additional 7. They want to increase the number of POS locations, increase the waiting area but below 25%, and increase the vault area to 955 s.f. The number of POS locations and increased vault size goes hand-in-hand.

They are proposing parking spots for express pick-up. The customers will pre-order and the medicine will be batched and mixed for them.

Mike Gaul asked if they ever have people waiting outside the store. Justin said, not in LNT, but at other locations it has happened and they have asked people to wait in their car. Mike asked what is that problem attributed to? Justin said its related to clients coming in for a particular product, specials, etc.

Steve asked about the method of purchase: order online, walk-in, or reservation? Justin said they do not set up appointments. If someone does order ahead, they will give them a window to pick-up similar to a typical pharmacy.

Lori Seese provided testimony that the ordinance language adopted by the Township came from a boilerplate ordinance provided during a Lehigh Valley Planning Commission seminar, shortly after Medical Marijuana was legalized in Pennsylvania.

Erich Schoch said that this is a dimensional variance request. The only reason the space is too small is because the ordinance prescribed the size originally. Attorney Schoch pointed out that there have not been any objectors to the requested variance.

Manny Changalis asked the online audience if anyone had comments – there were no comments.

Mike Gaul said this should be treated as a regular pharmacy. The Board of Supervisors may want to consider making an adjustment to the Zoning Ordinance; however, in the meantime, he has no concerns about the requested variances. Curing the problem that exists. There are only so many of these facilities allowed and they are providing a public service. If one municipality puts overly restrictive requirements on the building size, it just means that the use has to go elsewhere. Steve Nordahl and Brian Fenstermaker were in agreement.

#### Motion by the Board

The motion to approve the requested variance based upon the testimony and documents provided was moved by Manny Changalis and seconded by Michael Gaul. The motion carried unanimously.

#### **ZA2021 – 10 – LVTC III Owner, LLC**

The advertisement for the hearing was read aloud and all parties who would testify in the hearing were sworn. Present for the Application: Kate Durso, Esq.; Michael Jeitner, P.E.; Matthew Nunn for Trammel Crow, Applicant.

#### Exhibit A-1: Aerial Map

Matthew Nunn provided testimony about the property, vicinity, etc. Matt testified that the lake was offered to both Lower Nazareth Township and Northampton County for recreational purposes; however, both declined. Trammel Crow has since been approached by a group called, Dive, which will allow the scuba use to continue.

#### Exhibit A-2: By Right Plan

The scuba use is the only use intended to continue on the lake, not the water park. There will be a deed covenant which will provide that if Dive does not succeed, LVTC will be responsible for the lake. The lake property will revert back to the owner of the warehouse property.

#### A-3: Proposed Zoning Plan

Engineer Michael Jeitner provided testimony about this plan. Lot 1 is entirely within Lower Nazareth Township. Portions of Lot 2 are within Lower Nazareth Township and Bethlehem Township; however, the building is entirely within Bethlehem Township. Lot 3 is in both municipalities, approximately 57 acres in area. This plan will also need variances from Bethlehem Township. The Applicant will appear before Bethlehem Township at the end of December.

The impervious cover for Lot 1 is proposed at 78%; however, if they look at the overall requirement for the tract the impervious is only 30%. Lot 3 does not have road frontage, which is a requirement of the Zoning Ordinance.

Lot 2 is a flag lot, requiring a variance. The proposed width of Lot 2 is 139.50 feet at Hanoverville Road.

They intend to provide access through LVTC I. The second driveway is for cars only, and the third driveway located all the way to the east will be for Building 1 and the scuba operation. All trucks leaving the property will have to turn left due to the limitations of the bridge on Hanoverville Road.

They have requested sign variances for joint freestanding signs at the first and third driveways to provide direction for the buildings, existing buildings and scuba operation. The additional sign area is due to the number buildings and information they are attempting to support. Additional signage is also important for direction and safety for truck drivers. They believe the size is in line with other developments and appropriate for the (4) lots it would serve.

The scuba use could not continue if they could not create the separate lot. The lot is unique in size, situation, and steep slopes limits the development of the lot. The community wants to continue the scuba use on the property.

Mike Gaul inquired about a swale to the west, which is a stormwater management area. Why was it changed with the variance plan? Mike Jeitner stated that changes to access were required. Mike Jeitner explained the proposed layout of the scuba operation. Mike Gaul asked about the western driveway. Mike explained scuba divers will put in the lake and drop off equipment using that driveway. They will park in the parking lot using the western access.

Mike Gaul asked about the eastern driveway. Mike Jeitner stated it will be for vehicular traffic only.

Mike Jeitner noted that Building #1 has reduced in size with the new plan. The number of parking spaces has slightly increased with approximately 70 additional spaces. The stormwater features will be spray fields and underground stormwater management.

Signs were discussed. Mike Jeitner stated the first sign will be at the western driveway. The Zoning Ordinance permits 50 s.f. with an additional 25 if you are noting 5 or more tenants. They want (2) signs in lieu of the (1) permitted, and a request for an area increase to 100 s.f. The second sign is proposed at 75 s.f. located on the eastern driveway.

Mike Gaul commented about trucks which get lost and turn around at the adjoining Transfer Station.

Manny inquired if they would be making any changes to Hanoverville Road to accommodate additional traffic. Mike Jeitner stated they are in the process of evaluating what they need to do as part of the land development project.

Mike Gaul asked why they need a sign bigger than the 75 s.f. sign they have up the road? The response was because it will serve (4) lots: TC I, Building 1, Building 2, and the scuba use. Discussion about the ability for LVTC II to be served by the sign on Lot 2 was discussed at length. The Applicant had just recently received a sign variance for the properties to the west. It was agreed to amend the application for (2) 75 s.f. signs and drop the request for a 100 s.f. sign.

James Folk, owner of Atlantis Aquatic Inc, provided testimony. He has been involved with the scuba community for approximately 32 years. Dutch Springs has been in operation since the 1980's. The lake is fed by a spring fed aquifer. The lake is unique – three good access points, depth ranges from a few feet to 100 feet, and water clarity,

The lake will have two access points on the east side and the third access point on the west side. Access for EMS services and snorkel truck for training purposes is available at the third access point. Mr. Folk stated that the New York City Fire Department comes to this property to train.

The Dive Group would operate similarly to Dutch Springs with a difference of have a reservation system. The aqua park and water park uses will cease. It will be a scuba use only. They will have porta johns on the east side and restrooms on the west side. They will retain the necessary

insurance. Everyone who enters the property must sign a waiver and professionals must show proof of insurance to teach. Dive understands the property will revert to the Warehouse owner if something would happen and they could not continue to operate. Continuation of the scuba use is important for economic value and training for emergency services.

Exhibits A-1 thru A-5 were submitted for the record.

There were no comments from audience or anyone online.

Testimony was closed.

#### Board Deliberation

Discussion was held regarding Lot 3. The Zoning Hearing Board is in favor of the provision regarding the deed covenant that Lot 3 will revert to the Owner of Lot 1, as satisfactory to the Township. Lot 3 will only be permitted to use for a scuba use. Kate Durso said she is not aware if there would be prohibition that they couldn't find someone else to operate a scuba use. They haven't gotten that far into it yet. Mike Gaul stated he does not want to see Lot 3 sold to another company. The covenant should end up on both Lot 1 and Lot 3's chain of title for maintenance purposes.

Regarding the eastern access drive, Mike Gaul stated the furthest east fork must be limited to traffic associated with the scuba use and not extended to the neighboring property.

Steve Nordahl and Brian Fenstermaker had no additional comments.

#### Motion by the Board

Article 12, Section 1206.C, Minimum Lot Width

Article 12, Section 1206.H, Maximum Impervious Coverage;

Article 14, Section 1402.A, Street Frontage Required;

Article 14, Section 1404.A.1, Creation of a Non-Compliant Lot;

Article 14, Section 1404.B.7, Creation of a Flag Lot;

Article 18, Section 1817.A.5, Maximum Area of a Freestanding Sign, limited to 75 s.f. (*as amended*)

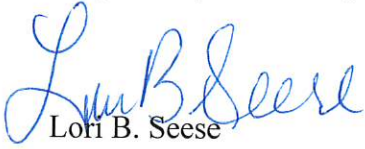
The motion to approve the requested variances with the conditions that a deed covenant is provided that Lot 3 will revert to the Owner of Lot 1, as satisfactory to the Township, and regarding the eastern driveway access, the furthest east fork be limited to traffic associated with the scuba use and not extended to the neighboring property was moved by Michael Gaul and seconded by Steve Nordahl. Motion carried unanimously.

#### Courtesy of the Floor

Motion to adjourn was moved by Michael Gaul and seconded by Steve Nordahl. The motion carried unanimously.

The meeting adjourned at 9:02 p.m.

Respectfully submitted,



Lori B. Seese  
Planning & Zoning Administrator

/lbs

***\* Note: These minutes are only a brief summation of the actual hearing. All Zoning Hearing Board hearings are officially transcribed by a professional stenographer. Should any parties wish to view these transcripts, please contact the Zoning Officer. If an official copy has not been requested, the requestor must pay for the transcript.***