

Zoning Hearing Board  
Lower Saucon Township  
Town Hall  
April 24, 2017

## **MINUTES**

The meeting was called to order at 7:00 p.m. by Chairman Jason Banonis.

### **Roll Call**

Present at the meeting were Chairman Jason Banonis, Vice Chairman Lachlan Peeke, and Board Members Austin Kunsman and Jay Lazar. Secretary Keith Easley was absent. The Solicitor, George A. Heitzman, was also present.

### **Minutes**

The Board had before it for approval the minutes of the meeting of March 20, 2017. Mr. Kunsman moved to accept the minutes as submitted. The motion was seconded by Mr. Banonis and passed by a vote of 4 to 0.

### **Bills**

The Board had before it for approval a bill from the Morning Call for advertising the meeting of March 20, 2017, the Court Reporter's bill for attendance at the meeting of March 20, 2017, and the Solicitor's invoice for the month of March 2017. Mr. Banonis moved to pay the bills as submitted. The motion was seconded by Mr. Kunsman and passed by a vote of 4 to 0.

### **Variance Appeal of Ben Franklin Technology Partners Corporation - Variance 07-17**

Chris Garges was duly sworn and testified that Applicant leases a 4.68 acre

area within a 450+ acre parcel. There is a very small area of the parcel located in an O&L zoning district in the Township, as is most accurately depicted on the surveyed plans that accompany this Application. The remainder of the parcel is located in the City of Bethlehem.

Applicant is proposing to construct two decorative freestanding walls with onsite signage. The signs will not meet the front yard setback required by §180-99.B(14). Applicant will require 17.5' of relief from the required setback of 37.5'.

This parcel had been granted two prior variances concerning wall heights and setbacks, Variance 05-09 and Variance 11-15.

Mr. Garges confirmed that no one was sent a notice of the pendency of this Application, as all of the surrounding properties within the radius of which notice is normally given belong to Lehigh University.

The Application was properly posted and advertised. Township Council took no action in the matter.

Attorney Erich J. Schock appeared representing Applicant. Attorney Schock called as a witness Charles N. Diefenderfer who is the Senior Project and Facilities Manager of Ben Franklin Technology Partners. Mr. Diefenderfer testified that he attended prior hearings concerning buildings on the site and had previously testified. He testified that the land in question is owned by Lehigh University and leased by Ben Franklin.

Mr. Diefenderfer identified Applicant Exhibit A-1 as a photograph showing the posting of the property, Applicant Exhibit A-2 as a letter of authority from Lehigh University to proceed with the zoning hearing, Applicant Exhibit A-3 as the lease between Ben Franklin and Lehigh University, and Applicant Exhibit A-4 as a plan of the proposed walls and signs.

The reason for the signs is to provide notice of the location to drivers. There has been a problem in the past where people have driven by the site several times and not realized where it was. The entrance is around a curve and is

difficult to see. Applicant Exhibit A-5 is a photograph of the proposed signs.

Mr. Diefenderfer testified that if the zoning requirements were met the sign would not be visible from the road.

There is an existing sign on the building as shown in the photograph of Applicant Exhibit A-6, but this will be blocked by new construction.

Mr. Diefenderfer testified that the proposed signage location is the only location that could be utilized that would provide the proper notice to drivers. He testified that the sign was moved back as far as is possible and yet still remain visible to drivers on the road. He further testified that Lehigh University has no objection to the sign placement. In response to a question from the Board, he said the sign will be on the portion of the property leased by Ben Franklin.

Kevin P. Markel, PE, of Barry Isett & Associates Inc., testified that his firm had deal with all prior expansions of this property. The setback in this area is 75' and prior relief in the amount of 49' had been granted.

The new construction is to be an energy-efficient building which will contain a large number of windows, thereby prohibiting placement of a sign on the building. He testified that the setbacks for the two walls are 20' and 23', and this will place the signs 6' to 7' higher than the road surface. If the walls and signs were located in accordance with the Zoning Ordinance, the height would be 12' to 15' above the road surface, and thus would not be readily visible to drivers.

Mr. Markel testified that there are no engineering issues nor any sight line issues. He said that the total sign area is 52 ft<sup>2</sup> which is less than would be allowed, and again reiterated that the signs had been moved as far back as possible in accordance with the visibility requirement.

There was no one in the audience who wished to be heard concerning the matter.

Mr. Peeke moved to grant the requested variance. The motion was seconded by Mr. Kunsman and passed by a vote of 4 to 0.

**Variance Appeal of Commerce Construction Co. - Variance 06-17**

Chris Garges, the Zoning Officer, having been previously sworn testified that this Application is filed in conjunction with a land development plan to create two industrial/warehouse lots on property located in an LI zoning district. The parcel is unique in that the property is located in two municipalities, Lower Saucon Township and the City of Bethlehem. As such, portions of each building and parking lot are located in each municipality. The portion of the lot located in Lower Saucon Township comprises approximately 25.68 acres. The property is currently vacant. The existing impervious coverage on the parcel is 92.8%.

Applicant will need relief to permit parking and parking lots in the required yards. Applicant is requesting variances from the following sections of the Zoning Ordinance.

1. §180-92E to allow detached trailer storage within the required setback.
2. §180-98C(2)(g) to allow detached trailers to be located within a required setback.
3. §180-98C(3)(a) to allow 9' x 19' automobile parking stalls where 10' x 18' stalls are required.
4. §180-98C(3)(a) to allow 10' x 50' trailer parking stalls where 10' x 53' spaces are required.
5. §180-D(4) to allow 13' x 60' truck loading spaces where 14' x 65' are required.
6. §180-109D(3) to exceed 30% building coverage by 7.7 %.
7. §180-91B to allow a guardhouse and a portion of Building 6 to be constructed within the required setback within Lower Saucon Township.
8. §180-92F to allow the access driveway that serves the Lot 6 and Lot 7 development within 5' of the property line.

9. §180-96C(1)(a) to allow light poles 28' in height where a maximum of 16' is allowed.
10. §180-97A(3)(e) to allow detached trailer storage within the buffer yard.
11. §180-97C(1)(d) to allow a security fence to be located within a riparian buffer.
12. §180-98C(1)(b) to allow Lot 7 parking requirement to comply with Majestic Bethlehem Center parking requirements in lieu of Township requirements.
13. §180-98C(2)(g) to allow the parking that serves the proposed Lot 7 to exist outside the municipal boundary, but on the same lot, Lot 7.
14. §180-102C(2)(a) to allow 1" = 100' feet plan scale.
15. §180-E(2) to allow encroachment into a side yard.

Section 180-98C(3)(a) and §180-98C(2)(g) are each listed twice to clarify that there are two separate issues that are being addressed in each section.

The property was properly posted and advertised. Township Council sent a letter to the Zoning Solicitor dated April 20, 2017, requesting that if the Board grants the requested variance from §180-96 C(1)(a) to allow the light poles to be 28' in height that the Board impose the condition that Applicant prepare a lighting layout and design plan for review by Township professional consultants, and that said plan be ultimately subject to approval by Township Council during the review of the Land Development Plan for the site.

Mr. Garges noted that Applicant is agreeable to the imposition of this special condition.

Attorney James Preston appeared on behalf of Applicant. He called as his first witness Rocco Caracciolo, PE, who testified he is a civil engineer and has been a professional engineer licensed in Pennsylvania since 1997. He is completely familiar with the project.

Mr. Caracciolo identified Applicant Exhibit A-1 as the general site plan for the property. The property is located south of Apple Butter Road and comprises 441 acres in total, of which 25.68 acres are located in Lower Saucon Township. He noted that access to the property will be from Commerce Center Boulevard. There is an access to Apple Butter Road, but this is for emergency use only and is normally gated closed.

The property is used for a development called Majestic Commerce Center which is a series of large warehouses. There is currently 2,500,000 ft.<sup>2</sup> of existing storage and 1,900,000 ft.<sup>2</sup> has been approved. Lots 4 and 5 have been developed.

Mr. Caracciolo testified that this had been Bethlehem Steel land and had been a site at which various materials had been buried, including slag and other byproducts of the steel manufacture. The Land Recycling and Environmental Remediation Standards Act, 35 PS 6026.104 *et seq.* along with the regulations codified at 25 Pa. Code 250 *et seq.* require that such areas be capped rather than having the material removed. The capping serves the purpose of preventing surface water from percolating through the buried material into the groundwater. There are restrictions as to what the land can be used for once it is capped, and the current use is an approved use.

There is therefore impervious cover on the entire site by design, and a storm water management plan to divert the water to a detention pond from which it is slowly released into adjoining waterways.

It is currently proposed to develop Lots 6 and 7 on the eastern face of the property. In 2011 a plan was approved and this is an amendment of that plan. The prior plan had shown a somewhat narrower single building on what is now Lots 6 and 7. The two buildings now proposed will be built basically in the footprint of the previously proposed building.

Exhibit A-2 shows Lots 6 and 7 and the road serving these two buildings. Each lot is to contain a warehouse building.

Attorney Preston confirmed that his client is agreeable to the suggested condition of Township Council. He noted that the only request for relief as to which Council had any question was the lighting.

Mr. Caracciolo testified that the nearest dwelling is 500' from the property and the lights will be shielded to do no harm to the dark sky. The 16' requirement of the Zoning Ordinance would require a larger number of lights which would add to the glare. Also, the site as developed thus far has 28' lights and they wish to continue this design. The two buildings that are to be built are of similar design to existing structures.

Although 77 parking spaces are required, 184 have been provided to allow for overlapping during shift changes. Parking will not be used by any retail customers, but rather solely by employees of the warehouses.

There was no one in the audience who wished to be heard concerning the application. Mr. Banonis moved, seconded by Mr. Peeke, to grant all of the requested variances subject to the condition suggested by Township Council. The motion passed by a vote of 4 to 0.

### **Old Business**

There was no old business.

### **New Business**

Mr. Garges noted that there will be one application to be heard next month, that of the Steel City Fire Company. This application had been previously before the Board and had been approved. However, when construction started it was found that the dimensions would be different than previously approved, necessitating another appeal.

**Adjournment**

There being no further business before the Board, Mr. Lazar moved, seconded by Mr. Banonis, to adjourn the meeting. The motion passed by a vote of 4 to 0 and the meeting adjourned at 8:18 p.m.

Respectfully submitted,

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George A. Heitzman  
Solicitor

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