

ATHENS TOWNSHIP ZONING HEARING BOARD

March 11, 2014

Zoning Hearing Board members in attendance were: Solicitor, Gerard A. Zeller, Esq., John Baird, Rita Jo Swingle, Walt Haggerty, Alternate, Cindy Parrish, Zoning Officer, and Secretary, Elaine Daddona. Diane Marvin was unable to attend. Stenographer was Caitlyn Jurek of Verbatim Reporting. Sign-in sheet was available for all others in attendance and is hereby attached.

Chairman John Baird called the meeting to order at 6:30PM. Attorney Zeller thanked the Board for the rescheduling change that was made for this hearing due to the lack of required advertising.

Election of Officers, 2014

Motion by Rita Jo Swingle to nominate John Baird as Chairman of the Zoning Hearing Board, and Diane Marvin as Vice Chairman, second by Walt Haggerty, and motion unanimously carried.

Motion by Rita Jo Swingle to approve the Minutes of the meeting held on December 17, 2013 as read, second by Walt Haggerty, and motion unanimously carried.

Mary Lou Palmer/Maryanne Geiss

Parcel #09-020.23-259-000-000

Application for Special Exception or Use Variance

The applicant seeks relief in the alternative: a determination that the Applicants' Quilt Shop is a cultural facility qualifying as a special exception; or a use variance to permit retail sales and instruction classes, and such other relief as determined by the Zoning Hearing Board.

Cindy Parrish, Zoning Officer, presented the application to the Zoning Hearing Board members for the property located at 131 Center Street, zoned Residential Urban.

The application was reviewed by the Athens Township Planning Commission on February 3, 2014 and the letter of comment was entered into evidence by Attorney Gerard Zeller, Solicitor.

Attorney Damian Rossettie along with the applicants, Mary Lou Palmer and Maryanne Geiss, presented testimony for the above application which began at 6:35PM and concluded at 7:05PM. Mr. Rossettie submitted a Memorandum of Law to be entered as additional testimony following the applicants' testimony.

The applicants testified as to the proposed use of the facility to include the hours of operation, number of employees and parking provided. She stated the hours are presently 10AM-5PM Monday through Thursday, 10AM-6PM on Friday, and 10AM-4PM on Saturday and the only employees are Mrs. Palmer and Mary Anne Geiss. Mrs. Palmer stated that she and her daughter, Maryanne Geiss presently operate the Friendship Quilt Shop located in downtown Sayre since September of 2012. She explained that they share ideas and techniques about quilting, a quilt gallery to display the quilts, and provides resources to quilt. She stated that their present location is inadequate. They also offer classes in quilting and propose to purchase the former Little Lambs Daycare building which is located on this parcel if zoning for their use is

approved by the Zoning Hearing Board.

Executive session of the Zoning Hearing Board members began at 7:25 PM and concluded at 7:45PM to reach a Decision in this matter.

Attorney Zeller asked Mr. Rossettie if the applicant would be willing to waive receipt of the written Decision within the 24-hour period, and he stated they would.

Motion by Rita Jo Swingle to **approve** the Application for Special Exception and stated that the Zoning Hearing Board was in agreement that quilting is an art form first, and that retail sales was second in considering this application. The approval vote was unanimous of the Zoning Hearing Board contingent on them keeping the classes and the gallery in operation.

Attorney Zeller asked Mr. Rossettie if the applicants would be willing to waive receipt of the written Decision within the 24-hour period, and he stated they would.

The meeting was adjourned at 7:50PM, as there was no further business to discuss.

Respectfully submitted,

Elaine J. Daddona, Secretary

ATHENS TOWNSHIP ZONING HEARING BOARD
May 27, 2014

Zoning Hearing Board members in attendance were: Solicitor, Gerard A. Zeller, Esq., John Baird, Diane Marvin, Rita Jo Swingle, and Walt Haggerty, Alternate, Cindy Parrish, Zoning Officer, and Secretary, Elaine Daddona. Sign-in sheet was available for all others in attendance and is hereby attached.

Attorney Zeller announced that, inadvertently, no Stenographer had been contacted for the hearing and it would therefore be necessary to continue the hearing to Monday, June 2, 2014 at 5:00PM and would be properly advertised as such.

Motion by Rita Jo Swingle to approve the Minutes of the meeting held on March 11, 2014 as read, second by John Baird, and motion unanimously carried.

The meeting was adjourned at 6:45PM, as there was no further business to discuss.

Respectfully submitted,

Elaine J. Daddona, Secretary

ATHENS TOWNSHIP ZONING HEARING BOARD

June 2, 2014

Zoning Hearing Board members in attendance were: Solicitor, Gerard A. Zeller, Esq., John Baird, Rita Jo Swingle, Walt Haggerty, Alternate, Cindy Parrish, Zoning Officer, and Secretary, Elaine Daddona. Diane Marvin was unable to attend. Stenographer was Caitlyn Jurek of Verbatim Reporting. Sign-in sheet was available for all others in attendance and is hereby attached.

Chairman John Baird called the meeting to order at 5:01PM.

Steven Bell, TL Cannon Corp. (Applebee's)

Parcel #09-020.24-096-000-000

Application for Variance(s)

The applicant seeks (4) variances in total, including area lot width reduction from 150 feet to 113 feet and two variances to allow additional square footage of wall and free standing signs and one variance to permit taller free standing signage, and such other relief as determined by the Zoning Hearing Board.

Cindy Parrish, Zoning Officer, presented the application to the Zoning Hearing Board members for the property located at 500 N. Elmira St., Athens Township, Pennsylvania, being the former site of DeSisti's Trailer Court and proposed to be the site of Applebee's with a re-address of 1860 Elmira Street, zoned Commercial.

TL Cannon Corporation was represented by Marshall C. Hardy, P.E., Senior Project Manager of McFarland Johnson and Attorney Jonathan Foster presented testimony for the above application which began at 5:06PM.

The first variance regarding the minimum lot width states that as a result of the proposed subdivision of the property, the new 0.7 acres parcel along McDuffee Street has a lot width of 113 feet, while the Township Zoning Ordinance states that a Commercial district lot must have a minimum lot width of 150 feet.

The proposed site will require three sign variances as follows: Parallel Wall sign area-a maximum of 50 total square feet of wall, awning or canopy signs per every 20,000 sq.ft. of gross floor area is allowed in the Commercial District. Applebee's is requesting a total of 133.2 sq.ft. of wall signs, which includes four 33.3 square feet signs on the four exterior walls of the restaurant building.

Free-Standing sign area – a maximum of 75 total sq.ft. of free standing sign is allowed per Township Zoning Ordinance for establishments under 100,000 sq.ft. in the Commercial District. Applebee's is requesting a pylon sign with two panels totaling 175.2 sq.ft., the main panel with their name/logo (117.3sq.ft) and a lower panel with a manual variable sign area (57.9)sq.ft.

Free-Standing sign height-a maximum freestanding sign height of 20 feet is allowed in the Commercial District per the Township Zoning Ordinance. Applebee's is proposing a

freestanding sign height of 30 feet.

Testimony in the matter of the above variances by Mr. Hardy and Attorney Foster Page concluded at 5:45PM.

Attorney Damian Rossettie was present on behalf of Vincent DeSisti regarding Mr. DeSisti's ownership of the property proposed to be developed, as well as a 0.7 acre parcel that is being retained by Mr. DeSisti which is a residential lot presently zoned Commercial. A proposed subdivision has been filed with Athens Township Planning Commission to be reviewed on this date by the Athens Township Planning Commission. Mr. Rossettie stated that it is the intention of Mr. DeSisti following the completion of the subdivision process to file a Zoning Map Amendment application for the residual lot if the proposed development is approved.

Rita Jo Swingle, Zoning Hearing Board member, asked if the Zoning Officers had any concerns to the application. Cindy Parrish stated that they had a concern about the precedent allowing businesses to come in and ask for changes in the signage due to visibility concerns. Patricia Cole, resident of McDuffee Street and Daniel Stark, resident of Clinton Street testified regarding the application. Testimony concluded at 5:50PM.

Mr. Foster made a closing statement on behalf of the applicant, and Mr. Rossettie made a closing statement on behalf of Mr. DeSisti which concluded at 6:02PM. Executive session of the Zoning Hearing Board began at 6:02PM to reach a decision in this matter, and reconvened at 6:25PM.

Attorney Zeller asked Mr. Foster, the applicant's attorney, if they would waive receiving a written Decision within the 24-hr. period, and he stated they would.

Attorney Zeller asked for the vote of the Zoning Hearing Board as follows:

Lot Width variance of 37 ft.: Vote unanimously to grant a variance for the subdivision of the lot that creates a nonconforming lot with a frontage of 113 feet instead of 150 feet conditioned on the owner utilizing the lot as a residential property and having the Zoning Ordinance amended to rezone the property residential.

Wall sign size variance of 83.2 sq.ft.: Vote unanimously to grant a variance for two (2) wall signs for a total of 66.6 square feet consisting of 33.3 square feet each for the west and south sides of the building which is in excess of the allowed 50 square feet.

Freestanding sign variance of 100.2 sq.ft.: Vote unanimously to grant a variance for a freestanding sign consisting of two parts of 175.2 square feet instead of the allowed 75 square feet.

Height of the Pylon sign variance of 10 ft.: Vote unanimously to grant a variance for a 30 foot high pylon sign instead of the allowed 20 feet.

The meeting was adjourned at 6:35PM, as there was no further business to discuss.

Respectfully submitted,

Elaine J. Daddona, Secretary

ATHENS TOWNSHIP ZONING HEARING BOARD

July 22, 2014

Special Meeting

Zoning Hearing Board members in attendance were: Solicitor, Gerard A. Zeller, Esq., John Baird, Rita Jo Swingle, Diane Marvin, Walt Haggerty, Alternate, and Secretary, Elaine Daddona. Sign-in sheet was available for all others in attendance and is hereby attached.

Chairman John Baird called the meeting to order at 6:32PM.

TL Cannon Corp (Applebee's Restaurant)
Parcel #09-020.24-096-000-000

A special meeting of the Zoning Hearing Board was held to discuss the Athens Township Appeal of the Board's decision concerning the premises located at 1860 Elmira Street, known as the Applebee's Restaurant Development and for other general purposes.

Attorney Zeller explained that the Athens Township Board of Supervisors and the applicant for Applebee's had reached an understanding as set forth in a proposed Stipulation for the Bradford County Court of Common Pleas which requested the signature of Attorney Zeller, Solicitor for the Zoning Hearing Board, to end the Appeal. A letter dated July 15, 2014 required a meeting of the Board to discuss this request.

After a lengthy discussion of the Zoning Hearing Board, motion by Rita Jo Swingle to request 1) that the Athens Township Board of Supervisors withdraw the Appeal; 2) that the Decision of the Zoning Hearing Board would stand ; or 3) to join in a request by all to the Court to permit a remand to the Zoning Hearing Board, second by Diane Marvin, and motion unanimously carried.

The Board did not wish to authorize signature of the Stipulation because they felt that the case was originally presented by the applicant in such a way that they did not want to alter their Decision without further discussion with the Board of Supervisors and the applicant.

Motion by Rita Jo Swingle to approve the Minutes of May 27, 2014 and June 2, 2014 as read, second by John Baird and motion unanimously carried.

The meeting was adjourned at 7:48PM, as there was no further business to discuss.

Respectfully submitted,

Elaine J. Daddona, Secretary

ATHENS TOWNSHIP ZONING HEARING BOARD

December 23, 2014

Zoning Hearing Board members in attendance were: Solicitor, Gerard A. Zeller, Esq., John Baird, Rita Jo Swingle, Diane Marvin, Walt Haggerty, Alternate, Cindy Parrish, Zoning Officer, and Secretary, Elaine Daddona. Stenographer was Caitlyn Jurek of Verbatim Reporting. Sign-in sheet was available for all others in attendance and is hereby attached.

Chairman John Baird called the meeting to order at 6:30PM.

Tariq Awan, A&S Imports LLC (Tobacco World)
Parcels #09-007.10-030; #09-007.10-029
Application for Variance

The applicant seeks a variance to reduce the required minimum lot size for a permitted use of a retail shopping center, and such other relief as determined by the Zoning Hearing Board.

Cindy Parrish, Zoning Officer, presented the application to the Zoning Hearing Board members for the property located at 2477 Elmira St., Athens Township, Pennsylvania, zoned Commercial.

Testimony began at 6:35PM with Andrew Harding of AJH Design, an Elmira Heights-based architectural design firm that drew up plans for the proposed expansion, and he spoke on behalf of the applicant, Tariq Awan, who was also present and testified. The applicant seeks to construct and rent out retail spaces at this location. Under the Township's Zoning Ordinance, any building that has three or more retail spaces is considered a retail shopping center and requires conditional use approval from the Board of Supervisors. The applicant seeks a variance due to the fact that the Zoning Ordinance states that a retail shopping center must be on a lot of at least three acres, and the proposed lot for development is 53,778 square feet totaling about 1.2 acres, and would only meet forty (40%) per cent of the minimum requirement. He would like to create three additional small retail spaces of between 800 and 1,000 square feet each. The existing house on the parcel, in which the applicant and his family currently reside, would be demolished and replaced with a new building for additional space.

Attorney Zeller, Zoning Hearing Board Solicitor, questioned whether the applicant had proven a hardship to develop the property, one of the conditions which is required for a variance to be granted. He explained that the difference between the properties' acreage and the required acreage for a retail shopping center is so great, the variance would go beyond a minimal deficiency.

It was suggested by both Mr. Zeller and the Board Chairman, John Baird, that the applicant and Mr. Harding might wish to request the Supervisors examine an amendment to the Zoning Ordinance that would allow for retail centers smaller than three acres.

There was testimony regarding the issues with the property that includes a steep grade and only one access point located close to the intersection of Elmira and Lockhart Streets. The applicant added that he had not contacted the Pennsylvania Department of Transportation regarding a better configuration for driveway access to and from the property. Testimony concluded at 7:10PM.

The Zoning Hearing Board agreed that the time constraints for a Decision on the hearing

would be waived to allow time for the applicant and Mr. Harding to address the issues with the property.

Roman Rosh, resident in attendance, testified and questioned as to whether or not there was a hardship created by a variance in order to meet the requirements of the Zoning Ordinance, and it was stated this would be addressed in a Conditional Use Hearing.

Motion by Diane Marvin to approve the Minutes of July 22, 2014 as read, seconded by John Baird, and motion unanimously carried.

The meeting was adjourned at 7:15PM, as there was no further business to discuss.

Respectfully submitted,

Elaine J. Daddona, Secretary