WHITEMARSH TOWNSHIP PLANNING COMMISSION
MEETING OF MARCH 10, 2020 7:00 PM

DAMBMAN ___ DORAN ___ CORNOG ___ GLANTZ-PATCHEN ___ QUITEL ___
SHAW-FINK ___ SHULA ___ MANUELE (BOS) ___ GUTTENPLAN ___ ESPSITO ___ SANDER ___

1. CALL TO ORDER

2. ANNOUNCEMENTS & CORRESPONDENCE
   • Call for Entries 2020 Montgomery Awards Program

3. APPROVAL OF MINUTES
   • February 11, 2020 (amended)

4. ZONING HEARING BOARD APPEALS
   • Review ZHB#2020-08 MHP Conshohocken, LLC / 10 Ridge Pike, Conshohocken, PA
     Request for a special exception for urgent care/clinic

5. CONDITIONAL USE APPLICATIONS

6. SUBDIVISION &/OR LAND DEVELOPMENT APPLICATIONS

7. OLD BUSINESS
   • Comprehensive Plan Selective Update – Review Recommendations of Historic Preservation and Environmental/Climate Change Working Groups

8. NEW BUSINESS

9. PLANNING COMMISSION MEMBER COMMENTS

10. PUBLIC COMMENT FOR NON-AGENDA ITEMS

11. ADJOURNMENT

NEXT MEETING
March 24, 2020 at 7:00 P.M.

Projected Agenda (anticipated items at this time):

• Review ZHB#2020-10 Whitemarsh Hotel Associates, L.P./432 Pennsylvania Avenue
  Request for modification of prior approval related to restaurant
• Review (continued) SLD #05-14; 901 Washington Partners, LP/901 Washington Street
  Revised Preliminary Plan; 62 Townhomes
PUBLIC PARTICIPATION INFORMATION

1. Public meetings of the Commission shall follow a prescribed agenda, which will be available to the general public no later than the Friday preceding the meeting.

2. If members of the public wish the Commission to address a specific item at a public meeting, a written request to the Staff Liaison shall be submitted at least one week before the meeting. The written request shall specify the item or items the individual desires to be addressed.

3. The Commission may consider other matters for the agenda as they see fit.

4. The Commission will entertain Public Comment at the conclusion of the discussion of the item and prior to specific action on the item during the meeting, at the discretion of the Chair. Individuals must advise the Chair of their desire to offer such comment.

5. A Public Comment period will be provided at the conclusion of a meeting for input on any new subject.

6. The Commission Chair shall preside over Public Comments and may within their discretion:
   a. Recognize individuals wishing to offer comment.
   b. Require identification of such persons.
   c. Allocate total available Public Comment time among all individuals wishing to comment.
   d. Allocate up to a five (5) minute maximum for each individual to offer Public Comment at a meeting, Township Staff shall time comments and shall announce, "one minute remaining" and "time expired" to the Chair.
   e. Rule out of order scandalous, impertinent and redundant comment or any comment the discernible purpose of which is to disrupt or prevent the conduct of the business of the meeting including the questioning of, or polling of, or debating with, individual members of the Commission.
TO: PLANNING COMMISSION
FROM: Charles L. Guttenplan, AICP, Director of Planning and Zoning
SUBJECT: MATERIAL FOR MARCH 10, 2020 MEETING
DATE: MARCH 6, 2020
CC: Vincent Manuele, BOS Liaison
Richard L. Mellor, Jr., Township Manager
James Hersh, PE, Township Engineer
Dave Sander, Esq., Township Solicitor

In addition to the revised minutes from the February 11, 2020 meeting, there are two agenda items for the March 10th meeting. (Minutes from February 25 and the special meeting on February 29 will be on the next agenda.)

The first agenda item is ZHB #2020-08, Zoning Hearing Board application for MHP Conshohocken, LLC for property at 10 Ridge Pike (Whitemarsh Shopping Center). The Applicant is seeking a Special Exception to permit an American Family Care (AFC) urgent care clinic in the new building, currently under construction at the Shopping Center. AFC proposes to lease slightly over one-third of the building. The CR-H District in which the Shopping Center is located, allows any use permitted in the Institutional Overlay District as a special exception. A “clinic” is a permitted special exception use in the Institutional Overlay District. This is on the agenda for the Planning Commission to make a recommendation to the Zoning Hearing Board; the Board will be holding a public hearing at their April 1, 2020 meeting.

The second agenda item is a continued review of the Comprehensive Plan Selective Update. You will recall that at the meeting of February 25th, two working groups were formed, one to review the Historic Preservation recommendations and one to add language pertaining to climate change and the environmental underpinnings of the Plan. The Historic Preservation group has submitted a revised Action Plan for Goal 1, Policy 4 (Historic Preservation); they also propose to incorporate two recommendations from the May 28, 2019 review letter from the Pennsylvania State Historic Preservation Office (that letter is enclosed with their revised Action Plan for reference). If we finalize the edits for the Plan document at this meeting, I will seek authorization to send all of the text edits to the consultant to incorporate into a final draft document.

If you have any questions prior to the meeting, please feel free to get in touch with me (cguttenplan@whitemarshwp.org or 484-594-2625). If any member is unable to attend the meeting, please send an e-mail to Bob Dambman (rdambman@gmail.com) and copy me. I look forward to seeing you all at the meeting.

Enclosures
Call for Entries

2020 MONTGOMERY AWARDS

We invite you to nominate a project for a 2020 Montgomery Award. The Montgomery Awards Program is a prestigious annual program that promotes outstanding design, innovative planning, and leadership and advocacy in Montgomery County. Since 1967, we have presented 215 awards that acknowledge the exceptional vision and commitment of communities, organizations, and professionals. All of our winners have enhanced our communities and contributed significantly to our great county.

We invite you to become part of this distinguished legacy by submitting a nomination for a 2020 Montgomery Award. We are looking for the best in planning, design, and advocacy in Montgomery County. Nominate a land development project for a Montgomery Award or a person or organization that has significantly contributed to advancing planning in Montgomery County for a Planning Advocate Award.
We are again partnering with the Montgomery County Conservation District to offer an Environmental Stewardship Award as part of the Montgomery Awards Program. Nominate a project, completed in the past three years, that exemplifies the practices of environmental stewardship and conservation for water and soil quality.

All entries may be submitted online or by mail. The deadline for nominations is May 1, 2020.

MONTGOMERY AWARD
Project Eligibility Criteria
Nomination Requirements
Entry Form

PLANNING ADVOCATE AWARD
Project Eligibility Criteria
Nomination Requirements
Entry Form

ENVIRONMENTAL STEWARDSHIP AWARD
Project Eligibility Criteria
Nomination Requirements
Entry Form

Enter by May 1, 2020

Contact: Pattie E. B. Guttenplan, RLA, AICP

Contact: Rita McKelvey 610-278-3753
MONTGOMERY AWARD ELIGIBILITY & AWARD CRITERIA

ELIGIBILITY

All projects must be located in Montgomery County and must be substantially completed when nominated. They are judged on their “as built” merits. Eligible projects receiving a Montgomery Award typically fall into the following categories:

LAND DEVELOPMENT

These projects promote excellence in design and planning. Projects include residential, office, commercial, and institutional developments that exemplify good site design, such as building placement, project context, parking and circulation, pedestrian amenities, landscaping, and sustainable design practices.

REVITALIZATION

These projects contribute to the revitalization of older, more established communities. Projects can include redevelopment and building rehabilitation, adaptive reuse, infill development, streetscape improvements, new parking facilities, and other community enhancements.

OPEN SPACE

These projects focus on open space preservation, land conservation, and community recreation amenities that sustain natural resources and enrich the community. Projects can include open space, park development, trail implementation, creation of natural areas, and other recreational, cultural, and heritage amenities.

ENVIRONMENTAL

These projects promote the protection and restoration of natural features and sustainable use of resources. Projects can incorporate habitat enhancement, riparian corridor protection, green infrastructure (green roofs, green parking lots, green streets), innovative stormwater design, energy efficiency, and renewable energy.
TRANSPORTATION

These projects improve mobility, enhance safety, and exemplify best planning, engineering, and context-sensitive design and construction. Projects can include road, bridge, transit, bicycle, pedestrian, and traffic calming improvements.

AWARD CRITERIA

Our agency evaluates all submissions, and a select group of nominations is visited, judged, and awarded by the Montgomery Award Committee, consisting of members from the Montgomery County Planning Commission Board. All projects are judged on the following criteria.

DESIGN

All projects must exemplify excellence in planning, design, and implementation. Projects will be judged on quality of design, community context, planning concept, environmental sensitivity, and sustainability.

PROCESS

The process involved in completing a project will also be evaluated. This includes achievement of community goals, successful community collaboration, public/private partnerships, funding strategies, outreach, and citizen participation.

IMPACT

All projects should demonstrate a positive impact to the overall value of the community. This can include economic, environmental, and recreational benefits, increased mobility, improved safety, job creation, enhanced community image, sense of place, and the social, cultural, and economic health of the community.
PLANNING ADVOCATE AWARD ELIGIBILITY & SUGGESTED CRITERIA

The Planning Advocate Award recognizes an engaged citizen, appointed/elected official or board, or community organization that has made significant and sustained contributions to advancing or promoting planning in Montgomery County. Anyone may submit nominations. Our agency evaluates all submissions, and a select group of nominations are judged and awarded by the Montgomery Award Committee, consisting of members from the Montgomery County Planning Commission Board.

ELIGIBILITY

Any individual, group, or organization that has demonstrated a significant leadership role in promoting excellence in planning and has contributed to community improvement in Montgomery County is eligible. This award is specifically designed to recognize the exceptional work being done by volunteers, public officials, and nonprofit groups/organizations. Self-nominations will not be considered.

Examples of eligible candidates include engaged citizens, members of municipal governing bodies or planning commissions; economic development, transportation, environmental, or historic preservation boards/organizations; or other local appointed and elected officials; citizen leaders; or community organizations.

SUGGESTED CRITERIA

SUPPORT OF PLANNING EFFORTS

Please describe how the nominee’s leadership, ideas, work, and commitment have notably advanced or promoted excellence in planning and contributed to improving the community.

EFFECTIVENESS AND RESULTS

Describe the extent to which the nominee has been effective in formulating and implementing ideas and planning efforts that have made a positive impact on the community. Identify the level of influence and effectiveness achieved by the nominee and their sustained commitment to activities that provide significant community contribution. Describe how the nominee has successfully collaborated, engaged, and led the community during the planning process.
ENVIRONMENTAL STEWARDSHIP AWARD
ELIGIBILITY CRITERIA

The Environmental Stewardship Award recognizes a project in Montgomery County that has been completed in the past three years and exemplifies the practices of environmental stewardship and conservation for water and soil quality. The award will be given by the Montgomery County Conservation District through the Montgomery Awards Program.

PROJECT ELIGIBILITY

- Project must have been completed within the past three years
- Project must be located in Montgomery County
- Applicant may submit up to 5 projects per year for this award

AWARD SELECTION

Anyone may submit nominations. The Montgomery County Conservation District will evaluate all submissions and select the award recipient.

Contact: Jessica Buck, Montgomery County Conservation District, 610-489-4506 ext. 14
MINUTES
PLANNING COMMISSION MEETING FEBRUARY 11, 2020

Attendees: Dave Shula, Sherri Glantz-Patchen, Bob Dambman, Peter Cornog, Scott Quitel, Charlie Guttenplan, AICP, Director of Planning and Zoning, Jacy Toll (BOS Liaison), Jim Hersh (Township Engineer), and Dave Sander, Esq. (Township Solicitor)

1. CALL TO ORDER: 7:00 PM by Chair Dambman

2. ANNOUNCEMENTS & CORRESPONDENCE

Announcements:

- Montgomery County Planning Commission / Planning Smarter Montco 2020 Courses and Events (provided in packet). Mr. Guttenplan highlighted Course in Community Planning coming up in late March and April and recommended it as a good introductory course for various aspects of planning that the Commission may be involved in.
- The entire packets that are provided to the Planning Commission are now available on the website; this is now the case for all of the various boards and commissions.
- All active Subdivision/Land Development applications will be located under the 2020 Subdivision/Land Development link on the website, regardless of the year they originated.

3. APPROVAL OF MINUTES

- On a motion by Mr. Shula, seconded by Mr. Cornog, the Planning Commission approved the January 28, 2020 meeting minutes with amendments made by Ms. Patchen. Vote 5-0.

4. ZONING HEARING BOARD APPEALS: None

5. CONDITIONAL USE APPLICATIONS:

- Review CU#02-20; Anusa Nail Studio, LLC/428 Germantown Pike
  
  Personal Service Shop in VC-1 District

Attendees: Dave Ennis, Esquire, the applicant’s representative and Xine Huynh, the applicant and owner

The applicant is seeking approval to open a personal service shop pursuant to Section 116-290.C.(2) of the Zoning Code. The applicant is proposing to lease space within the strip shopping center located at 428 Germantown Pike. There are 8 code criteria for conditional use approval; many of which do not apply for shopping centers. The floor plan was reviewed showing 4 manicure stations and 4 pedicure stations; ventilation will be installed for fumes associated with the nail polish; they are starting out with 2 technicians with a potential of 4; hours of operation are Monday-Friday 10:00 AM-7:00 PM and Saturday 9:00 AM-6:00 PM; mostly by appointment only with a minimal number of walk-ins; customer parking will be in the existing parking lot as well as on Germantown Pike and the lease requires all employees to park behind the WAWA. Ms. Patchen stated she doesn’t see anything stopping them from filling all stations at the same time (there are only 4 technician chairs so only 4 customers can be serviced at a time; manicures and pedicures aren't each done on 4 different people).

No Public Comment

Motion: On a motion by Mr. Quitel, seconded by Mr. Shula, the Planning Commission recommended granting approval of the conditional use application. Vote 5-0.

6. SUBDIVISION &/OR LAND DEVELOPMENT APPLICATIONS
Attendees: Jim Vesey, one of the owners of the property at 901 Washington Street Partners; his partner Gary Cole; Jim Bannon, Engineer from Nave Newell; Sarah Peck, developer/partner from Progressive New Homes and her associate Justin Moody were present.

Mr. Cornog wanted to know the basis for the request of the variances from the Zoning Hearing Board regarding the reduction of the open space along the river bed from 150’ to 45’ (the hardship was the irregular shape of the lot and the narrowing on the east side, they were not able willing to provide the proper buffer). It was noted that the Zoning Hearing Board disregarded the Planning Commission’s recommendations, noting particularly the recommendation to deny the variance to reduce the riverfront open space (§116-284.A.). Mr. Quitel stated he feels they should start the project with an overlay and then fit the footprint of the development behind that. Mr. Bannon stated this is a much better condition; the impervious coverage is going to be reduced from 92% to 63%. Ms. Peck stated the setback allowed is actually 100’ not 150’ with 2 public amenities, which they are providing (it was confirmed there is a 49’ easternmost setback and 145’ westernmost setback).

Ms. Peck presented a PowerPoint hitting some of the things that were addressed since the first meeting. There were some issues raised by the Commission members and staff which they took to heart and made some revisions to the plan. The plan changed to show all units have riverfront views and roof decks on all homes or the option to have one; all units have two car garages and a third parking spot was added; they improved connectivity, changed trail along the river from the Boardwalk back to a red shale macadam trail because it is a zoning requirement; a 5’ retaining wall will be built to maximize stormwater management; avoided removal of heritage trees by changing placement of the trail; the basin was changed to increase the capacity while not increasing the area; road widths were changed to 25’; pedestrian access was discussed with SEPTA and David’s Bridal and they are working on concepts with them; they are talking to SEPTA about a potential guide rail, future handicap accessibility and also having a separation from the SEPTA train cars.

Mr. Cornog asked how do you access the trail and who is responsible for maintaining the public access (there are stairs that connect to the trail; and public access will be maintained by the Home Owners Association if the Township won’t take it); questioned the proposed size of Washington Street and that no section of the right-of-way be less than 40 ft. (due to site constraints the new street will not meet Township standards; they are proposing a 30’ cartway which is more than adequate and it is identical to their former approved office plan); he stated the Township needs to think about alternate roads to Hector Street for future planning.

Mr. Bannon discussed flooding issues that were brought up at the last meeting. They are considering a flooding event at this site elevation 56 ½’ which is 1’ above the garage floor of the lowest units, so our thinking being below that you are okay, above that you will need to move your car; there have been 4 flooding events since 1999 that are considered a 10 year storm and only 1 of them got to that elevation; it was pointed out that the 100 year storm is 6 feet above the pad and the living spaces are 9 feet above the pad. Mr. Vesey stated there are 10 items that can trigger an evacuation. They met with Nick Weaver, Fire Marshal, who had some good additions to the emergency evacuation plan which they revised and he also recommended the residents downloading an app so they be warned when to take appropriate action. Mr. Cornog asked if there are any guidelines as to when you can return (it was not addressed, that would be dictated by the Township and safety precautions as to when); Ms. Peck stated a public offering statement is required and will be given to a perspective owner or renter with the rules and they will have 7 days to back out. Mr. Bannon explained the 10 year and 100 year floods: the 10 year storm is about the elevation of the pad, the 50 year storm is about 3 ½’ above that. The Schuylkill River in this location has never reached that elevation since they installed the gauge at the Fairmount Dam. He explained that for the 4 storm events they looked at the peak of the storm to river crest; the
shortest was less than 7 hours, the average was 9 ½ hours and the highest was 12 ½ hours; it took Floyd 9 hours to crest at this location.

Sara Peck stated they tried to make the development as open as possible but they just couldn’t make it work; they already cut the number of units back from 75 to 62; and by moving the units back the views will be of David’s Bridal and the loading docks. Ms. Peck offered to walk the site with anyone that is interested to show what is there and to appreciate what is there and how nice it is going to be.

Public Comment: Linda Doll, Fairway Road; Sydelle Zove, Harts Ridge Road. Ms. Doll commented if the public has access to the red shale trail how do they get to it, where do you park (come down Lee street and park on Washington Street); doesn’t feel the trail is a trail, it is not connected to anything (the Planning Commission stated this is just the first step; it is the same as the sidewalk issues; this is the start of the future development of a longer trail); didn’t understand how parking was added (39 spaces were added behind garages though they are only 8’ wide and are not included in the parking count, there is ample parking for visitors and public parking for those with no driveways); where are the trash cans kept (in garages until collection day then will be placed in front of the units); and concerned about the narrow roads (will add no parking signs). Ms. Zove agreed that the 36’ road width was too wide for residential, but suggested not going below 26’; perpendicular parking and backing into a road way is a safety issue; concerned with the proximity of the sidewalk in proximity to the tracks; she explained her observations on how the Zoning Hearing Board decided to grant the variance for the setback reduction from the riverbank; and she stated that the 24’ street width is traffic calming but the motive behind this waiver is to put in more units. Debra Harris, Pilgrim Road, stated that cars parked on streets make it safer; 24’ wide streets with parking on both sides tends to slow down vehicles; trash trucks are able to get through, and wider roads are more dangerous.

Planning Commission Final Comments: Mr. Quitel stated it is not the street width, it is the open space (or reduction) that drives the number of units; they fought for reduced green space width but didn’t fight for an alternative to the red shale trail; asked if they had to meet the 150’ setback would they still build (not sure but it is not economically feasible for less units).

Ms. Peck stated they received a lot of feedback on design issues; the landscape architect is very excited about this opportunity in helping restore the riverbank and improving its environment.

Ms. Patchen and the other members would like to take up the applicant’s offer to walk the site; this will be advertised as a public meeting once a day and time are set.

7. OLD BUSINESS: None.

8. NEW BUSINESS: None.

9. PLANNING COMMISSION MEMBERS COMMENTS: None.

10. PUBLIC COMMENT FOR NON AGENDA ITEMS

- Chair Dambman reiterated on the Montgomery County Planning Commission / Planning Smarter Montco 2020 Courses and Events for those who were not present at the beginning of the meeting.

11. ADJOURNMENT

- On a motion by Mr. Cornog, seconded by Mr. Shula, the meeting was adjourned at 9:40 PM.

Respectfully submitted,
Charles L. Guttenplan, AICP, Director of Planning & Zoning

The Planning Commission is appointed as an advisory group to the Board of Supervisors and the Zoning Hearing Board with respect to comprehensive land use planning, existing land use, and various land use and zoning applications in Whitemarsh Township. No formal decisions are rendered by the Planning Commission. Formal decisions are rendered by the Board of Supervisors or Zoning Hearing Board, as prescribed by law, based on the type of application.

G:PLANNING COMMISSION/PC Minutes/2020/2.12.2020
APPLICANT: MHP Conshohocken, LLC

PROPERTY LOCATION: Parcel #65-00-09997-00-9
Block 001, Unit 001
10 Ridge Pike
Conshohocken, PA 19428

ZONING DISTRICT: CRH – Commercial Retail (High) District

SUMMARY OF RELIEF REQUEST:
The Applicant is requesting a Special Exception under Section 116-104.A.(6)(b) to permit an American Family Care (AFC) Urgent Care clinic in the new building, currently under construction at the Property. This section allows any use permitted in the Institutional Overlay District as a special exception in the CRH District. A “clinic” is a permitted special exception use in the Institutional Overlay District (Section 116-175.K).

PRIOR DECISIONS
ZHB#2018-29 Variances / Parking
ZHB#2016-16 Variances/Cellular Antennas
ZHB#2010-20 Variance/Signage
ZHB#2009-34 Variance/Addition
ZHB#2006-58 Variance/Signage
ZHB#2004-47 Variance/Outdoor Dining – Denied
ZHB#2002-52 Variance/Outdoor Dining – Denied
ZHB#1997-26 Variance/Signage
ZHB#1997-07 Variance/Signage
ZHB#1996-18 Variance/Signage
ZHB#1994-18 Special Exception/Use
ZHB#1994-03 Variance & Special Exception/New Building, Parking & Use
ZHB#1975-23 Special Exception/Dumpsters
ZHB#1974-14 Special Exception/Use – Denied
ZHB#1962 Variance/Parking
ZHB#1956 Variance/Signage - Denied

Respectfully Submitted,

Charles L. Guttenplan, AICP
Director of Planning and Zoning/Zoning Officer
APPEAL TO ZONING HEARING BOARD
WHITEMARSH TOWNSHIP
COMMONWEALTH OF PENNSYLVANIA

Applicant/Appellant: MHP Conshohocken LLC
Address: 610 Conshohocken State Road, Penn Valley, PA 19072
Phone #: 215-825-3195

Owner: Glimont Associates Limited Partnership
Address: c/o Brnamor Property Group, One Fayette Street, Suite 150, Conshohocken, PA 19420
Phone #: 212-869-3000

Location of the Property Involved: Whitemarsh Shopping Center, Ridge and Butler Pikes, Conshohocken PA, Store B-5

Block #: Unit #: Parcel #:

NATURE OF APPLICATION (Describe proposed use and/or construction; type of appeal requested and specific section(s) of Whitemarsh Township Zoning Code which is are relied upon):
Applicant requests a special exception pursuant to Section 116-104(A)(6)(b) to permit an AFC Urgent Care clinic/physician office at the Property. The Property is located in the CR Commercial Retail District. A "clinic" is a permitted special exception use in the Institutional Overlay District (Section 116-175(k)) and is therefore permitted by special exception in the CR Commercial Retail District. "Physician office" is a use permitted by right in the CR Commercial Retail District.

GROUNDS FOR APPEAL (State reasons for appeal and nature of hardship, if claimed):
"Attach additional sheets if necessary"

A "clinic" is a use permitted by special exception in the CR Commercial Retail District. The Applicant's proposed use is more specifically described in Exhibit "A" attached hereto and incorporated herein. The Applicant's proposed use satisfies all requirements for the grant of a special exception both under the Whitemarsh Township Zoning Code and under the Pennsylvania Municipalities Planning Code.

Legal Counsel (if represented): Alfred Fuscaldo, Esq. (Fuscaldo Law Group LLC)
Address: P O Box 147, Valley Forge, PA 19481
Phone #: 484-302-5481
E-Mail: al@fuscaldolaw.com

My (Our) signature(s) authorize(s) permission to pose my (our) property and permission to the Zoning Hearing Board and their representative to enter thereon for inspection purposes.

I (We) certify the information provided on this application and supporting documentation and plans are true and correct to the best of my (our) knowledge, Information, and belief. You are required to submit proof that you are one of the following:

- Owner(s) of Legal Title
- Owner(s) of Equitable Title
- Tenant(s) with permission of Owner(s) of Title (Enclose letter attesting to same)

Signature of Applicant/Appellant: Matthew Maiorino
Managing Member, MHP Conshohocken LLC

Signature of Applicant/Appellant:
American Family Care (AFC) is a network of physician practices that provides affordable, efficient and convenient healthcare to patients of all ages who require treatment for high-acuity, non-life-threatening illness or injury, including ailments such as colds, coughs, sore throats, ear infections, pinkeye, flu or flu-like symptoms, sprains, strains, fractures and minor lacerations. AFC also provides workers compensation and occupational health services to area employers with an offering that includes pre-employment physicals, breath alcohol testing, DOT physicals and drug testing.

AFC operates over 240 offices across the country. Each AFC office is open every day of the year – holidays and weekends included – from 8 am to 8 pm on weekdays and from 8 am to 5 pm on weekends. AFC accepts most major health insurances and neither appointments nor referrals are required. Every patient in an AFC practice is under the care of a board-certified Family Practice or Emergency Medicine physician and AFC’s costs are typically five times less than the cost of an Emergency Room visit. The wait time to see a clinical professional in AFC offices averages less than 15 minutes and AFC strives to have every patient discharged within one hour from the time that they register. Across AFC’s entire network of care, AFC averages 65 minute door-to-door service. AFC achieves this through a digital patient check-in system that is accessible to patients; in-clinic, online, and via mobile app. An AFC patient will never be “admitted” or stay overnight.

AFC averages 3-4 patients per hour, and its clinics reach an average patient volume of 40 patients per day. As a result, AFC patients have a minimal parking impact. At 40 patients per day, AFC’s operational needs will dictate staffing of approximately five employees. Staff parking for this AFC will be located behind the building.

After over 35 years of operation, AFC knows that its peak hours of operation will occur between 8-10am (40%) and 4-6pm (30%). Based on AFC’s average patients per day, this equates to; 8-10am – 16 patients per day, 4-6pm – 12 patients per day, Other – 12 patients per day.

AFC is not an Emergency Room, a specialty clinic, or a surgical center. AFC is a physician practice that offers an affordable and efficient alternative to the Emergency Department with more convenient hours and services than many traditional primary care options.

AFC physician offices maintain a digital X-Ray platform for basic imaging requirements and that are most commonly used to view possible sprains or fractures, but never for treatment of major trauma, compound fractures or any other life-threatening ailment that would be better treated in a hospital. AFC does not “set” or cast fractures, nor does AFC treat chronic illnesses presented by its patients, but rather AFC stabilizes its patients and refers such injuries or illnesses to the appropriate specialty practice physicians in the area or to a primary care physician, as required. AFC also maintains a small laboratory onsite to support basic phlebotomy and the various types of “rapid” testing that are commonly found in a physician’s office (i.e., strep, flu, mono, etc.). AFC does not use medical gases in its lab and the vast majority of the tests ordered by AFC physicians are sent out to a third-party laboratory for interpretation, the results of which are communicated back to the AFC clinical team over a secure electronic system and directly into AFC’s Electronic Medical Record platform.
AFC patients always arrive to the AFC practice under their own power, never by ambulance, and in the rare instance when a patient arrives with a condition that AFC physicians deem critical, AFC dials 911 immediately and the patient is cared for by an AFC physician until EMT's arrive. With AFC's "crash cart" and defibrillator on hand, AFC physicians have the training, experience and ability to follow emergency protocols to support any critical patient until help arrives by administering aspirin, epi, intubation, EKG, etc.

AFC physicians order and administer basic medications (ibuprofen, Tylenol, etc.) and vaccinations required for school, work, travel or following injury (Varicella, Hepatitis, TDap, etc.), but do not dispense any medications, nor does AFC ever maintain narcotics or any kind of addictive, controlled substances on the premises.

AFC prides itself on being good corporate citizens by sponsoring local not-for-profits and community events that promote the health and wellness of those who live, study and work in the area.

The proposed AFC location is located within the approximately 8973sf retail space approved by Whitemarsh Township and shown on the recorded Site Plan prepared by Langan dated March 29, 2019, last revised December 4, 2019, a copy of which Site Plan is submitted as part of this application. The proposed AFC location is an approximately 3400sf portion of that approved retail space and is highlighted in yellow on the Site Plan.

A copy of the floorplan for this proposed AFC location is attached to this application as Exhibit “B”.

Elevations of this proposed AFC location is attached to this application as Exhibit “C”.

Photos of representative AFC locations are attached to this application as Exhibit “D”. 
Exhibit “B”

Floorplan
Exhibit "C"

Elevations
Exhibit "D"

Representative Photos
Exhibit “D”

Representative AFC Urgent Care Photos

Sample AFC Signage

Sample AFC Waiting Room

Sample AFC Signage
Sample AFC Examination Room
Sample AFC Examination Room
BEFORE THE ZONING HEARING BOARD OF WHITEMARSH TOWNSHIP  
MONTGOMERY COUNTY, PENNSYLVANIA  

IN RE: BRIXMOR PROPERTY GROUP  

NO. 2018-29  

DECISION  

I. BACKGROUND  

The Applicant, Brixmor Property Group, filed an application with the Zoning Hearing Board, regarding the property located at 10 E. Ridge Pike. Public hearings were conducted on December 5, 2018, January 9, 2019 and February 6, 2019.  

The Applicant proposed to construct a new 8,973 square foot multi-tenant retail building and make modifications to the parking layout and traffic circulation within the Whitemarsh Shopping Center. The property is zoned CR-H Commercial Retail High District.  

The Applicant requested the following relief:  

1. A variance from Section 116-24.D(3), so as to permit the existing 49% of the rear yard area to be devoted to accessory uses (90° parking in place of angled parking), rather than the 30% allowed.  

2. Variances from Section 116.93.E and 116.24.E(3)(a), so as to permit modifications to parking in the front yard adjacent to Butler Pike.  

3. A variance from Section 116-184, so as to permit 340 parking spaces, rather than the 1,717 spaces required.  

4. A variance from Section 116-184.E, so as to permit parking areas and double rows of parking to be separated from each other by planting strips less than 10 feet in width.  

5. A variance from Section 116-184.F, so as to permit several new parking spaces located less than the required 10 feet from the proposed building.  

The Zoning Hearing Board members participating in the hearings were Marc Weinstein, who served as Chair, Robert A. Bacine, James Behr, Stanley A. Casacio and William E. Kramer. The Applicants were represented by Marc Kaplin, Esquire. The following neighboring property owners entered appearances as parties in opposition to the application:  

John and Mary Ellen McCarrick
The witnesses were duly sworn or affirmed and Notes of Testimony for the hearings were transcribed and are hereby made a part of this record. After the hearings and public discussion, the Board voted February 6, 2019 to grant the application, by a vote of 4 to 1, with Mr. Behr dissenting. The Board issues Findings of Fact and Conclusions of Law in support of the Decision and Order.

II. FINDINGS OF FACT

1. The Applicant is Brixmor Property Group, which owns and operates the Whitemarsh Shopping Center located at the corner of Ridge Pike and Butler Pike (10 E. Ridge Pike), Whitemarsh Township, Montgomery County, Pennsylvania.

2. The following Exhibits were marked and duly admitted into evidence:

TOWNSHIP EXHIBITS:

T-1A Proof of Publication
T-1B Meeting Notification
T-1C Posting of Notice
T-2 Zoning Map
T-3 Tax Map
T-4 Planning Commission Report dated November 28, 2018

APPLICANT’S EXHIBITS:

A-1 List of Existing Legal Non-Conformities
A-2 List of Variances Granted in 1994
A-3 List of Requested Variances
A-4 Brian M. Conlon, PE - CV
A-5 Aerial
A-6 Whitemarsh Township Zoning Hearing Board Decision of April 7, 1994
A-7 Charles L. Guttenplan, AICP April 18, 2018 Review Letter
A-8 Wendi Kapustin, AICP August 28, 2018 Correspondence
A-9 Charles L. Guttenplan, AICP September 24, 2018 Email Response
A-10 Aerial Overlay Photograph
A-11 Sketch Plan
A-12 Plan
A-13 Land Development Plan
A-14 Peace and Good Order Ordinance
A-15 Excerpt From Tenant Leases
A-16 Section 51-1 of the Whitemarsh Township Code
A-17 Parking Lot Buffering Exhibit
A-18 Modified Parking Lot Buffering Exhibit
OBJECTORS’ EXHIBITS:

McCarrick-1 - Statement

3. The Applicant proposes to construct a new 8,973 square foot multi-tenant retail building and make modifications to the parking lot layout and traffic circulation within the Whitemarsh Shopping Center. (N.T. 12/05/18, pp. 14-20, 44, Exhibits A-11, A-12, A-13)

4. The Property is located in the Commercial Retail High District (CRH). (N.T. 12/05/18, p. 18, Exhibit T-2)

5. The Property measures approximately 8 acres. (N.T. 12/05/18, pp. 26-27, Exhibits A-11, A-13)

6. The Township Planning Commission unanimously recommended approval of the application. (Exhibit T-4)

7. The Applicant presented the testimony of Brian Conlon, PE, as an expert in civil engineering ("Engineer"). (N.T. 12/05/18, pp. 24-26, Exhibit A-4)

8. The Engineer prepared the plans showing the existing shopping center as well as the plans for the new building and redesigned parking lot. (N.T. 12/05/18, p. 25, Exhibits A-11, A-12, A-13)

9. The property has numerous zoning nonconformities, and has been the subject of previous Zoning Hearing Board relief, most notably, a 1994 Decision which permitted a total of 390 parking spaces for that expansion of the shopping center. (N.T. 12/05/18, pp. 28-40, Exhibits A-1, A-2, A-6, A-7, A-8, A-9)

10. The Applicant intends to improve the parking and circulation of the shopping center and add curbs, sidewalk, pedestrian accesses, landscaped islands in the parking lot, lighting and trash enclosures. (N.T. 12/05/18, pp. 45-49, 102)

11. The Applicant will install new landscaping and fencing along the rear of the shopping
center. (N.T. 12/05/18, p. 49, Exhibit A-18)

12. There will be a slight reduction in impervious coverage. (N.T. 12/05/18, p. 54)

13. The Applicant’s Engineer presented testimony supporting a finding that the parking requirement of 1,717 parking spaces is not necessary for the proper functioning of the shopping center. (N.T. 12/05/18, pp. 66-93)

14. Brixmor has the authority with its tenants’ leases to require tenants’ employees to park to the rear of the building and to comply with the Township noise ordinances. (N.T. 12/05/18, pp. 70-74, N.T. 01/09/19, p. 12, Exhibit A-15)

15. The Applicant will no longer rent out space in the parking lot for seasonal sales. (N.T. 12/05/18, pp. 86-90)

16. The Land Development Plan from 1995 required posting of signage associated with the Panera Bread restaurant prohibiting trucks over 30 feet long. (N.T. 01/09/19, pp. 3-6, Exhibit A-13)

17. The Whitemarsh Township Peace and Good Order Ordinance restricts noise from truck loading and unloading operations between 6:00 P.M. and 7:00 A.M. (N.T. 01/09/19, pp. 7-10, Exhibit A-14)

18. Concerns were raised by the Board and the neighboring property owners that Brixmor has not been enforcing policies over the last 12 years which would control employee parking, truck traffic, loading and unloading operations and noise, in spite of recent complaints; however, most recently Brixmor has been diligent in responding to neighbor complaints. (N.T. 12/05/18, pp. 95-105, 122, 123; N.T. 01/09/19, pp. 6-19; N.T. 02/06/19, pp. 41-42, 91-94)

19. Brixmor affirmatively agreed to take on the responsibility for the tenants’ failures to comply with the noise ordinances of the Township and the conditions imposed by any approval hereunder. (N.T. 01/09/19, pp. 15-17, 32)

20. The Applicant will install dense 6'-12' high landscaping, a 3' wall and solid 6' fencing
to buffer the neighboring properties to the side and rear of the shopping center. (N.T. 01/09/19, pp. 38-52; N.T. 02/06/19, pp 5-6, Exhibit A-18)

21. Any restaurant planned for the 8,973 square foot building would require a Special Exception not granted herein, but the Applicant agreed that no such restaurant would exceed 3,500 square feet. (N.T. 01/09/19, pp. 92, 131, 143-144, 164-167)

22. Objectors, John and MaryEllen McCarrick, expressed concerns regarding lights, car exhaust, trash and outdoor dining. (N.T. 01/09/19, pp. 56-90, 145-149)

23. The Applicant agreed to not install 3 parking spaces shown on the plans and shall be required to post “No Idling” signs at the other parking spaces closest to Mr. and Mrs. McCarrick’s property. (N.T. 01/09/19, pp. 78-90, 157-158; N.T. 02/06/19, p. 6, Exhibit A-18)

24. The proposal reduces the existing parking spaces to no less than 340 spaces. (N.T. 01/09/19, pp. 112-113, 118-128)

25. There are still approximately 5 more parking spaces shown on the Plans in addition to the 340 requested, and the removal of the 3 spaces near the McCarrick property will not affect the relief requested. (N.T. 01/09/19, pp. 157-158)

26. The property is unique in that the current use includes a number of zoning nonconformities existing for years, and memorialized by prior Decisions of this Board (Exhibits A-1, A-2)

27. Except for the variance from the number of required parking spaces, all relief requested is merely related to reconfiguration of existing parking areas, which conditions exist either as lawful nonconformities or by prior relief granted, and therefore such requested relief is de minimis in nature.

28. The Applicant’s engineer presented uncontroverted, persuasive expert evidence that the proposed parking count of 340 parking spaces exceeds the parking required for the existing and proposed uses. (N.T. 12/05/18, pp. 66-83; N.T. 02/06/19, pp. 6-9)
29. The parking required under the Ordinance, 1,717 parking spaces, is an unnecessary requirement causing a hardship as applied to this particular property considering the existing nonconformities and past relief granted, as well as current and proposed uses.

30. With reference to the variances requested, upon consideration of Section 910.2 of the Pennsylvania Municipalities Planning Code, the Board determines the following:

A. There are unique physical circumstances and conditions, including the size of the property as related to the existing use, and existing lawful nonconforming conditions peculiar to this property, creating an unnecessary hardship which justifies the granting of the parking variances.

B. The Applicant presented uncontroverted credible evidence for the Board to conclude that the property cannot be developed, and, for that matter, cannot be modified, updated, or improved, in strict conformity with the Zoning Ordinance.

C. The hardship arises from the physical circumstances and conditions unique to this property, and has not been created by the Applicant.

D. The granting of the variances will not frustrate the intent of the Zoning Ordinance, and considering the conditions imposed by the Board, the proposal will not adversely impact the development of adjoining properties, or alter the essential character of the neighborhood.

E. The variances requested are the minimum variances to afford relief.

31. Under Section 116-217 of the Zoning Ordinance, the Board determines the following:

A. The use will not substantially injure or detract from the use of neighboring property or from the character of the neighborhood, and the use of property adjacent to the area of the proposed use will be adequately safeguarded by the conditions imposed by the Board.

B. The proposed use will not have a harmful effect on local vehicular and pedestrian traffic.

C. The proposed use is consistent with the legislative intent of the CR-H Commercial Retail High District.

D. The surrounding neighborhood will not be subjected to objectionable noise, lighting, glare, heat, ventilation, smoke, fumes, vapors, dust, dirt, gases or radioactive or electrical disturbances from the proposed use, provided that the Applicant strictly complies with the extensive conditions imposed by this Decision and Order.
E. The proposed use will not unduly burden sanitary, school, police, fire, park or other public facilities.

32. The majority of the relief requested is de minimis in nature, and the required parking count provisions of the Zoning Ordinance, strictly applied, impose an unnecessary hardship on the property and the Applicant. Therefore, the requested variances should be granted.

III. DISCUSSION

In Hertzberg v. Zoning Bd. of Adjustment of the City of Pittsburgh, 554 Pa. 249, 721 A.2d 43 (1998), the Supreme Court of Pennsylvania determined that, in evaluating a hardship for a dimensional variance, the Zoning Hearing Board should consider various factors, including economics, and the characteristics of the surrounding neighborhood, in determining whether a variance would be appropriate. The Court also held that, when considering a dimensional variance, a Zoning Hearing Board should adopt a somewhat more relaxed standard of scrutiny than when the Board is considering a use variance.

The case before the Board involves the request for dimensional variances, most of which are technical in nature, represent modifications to existing nonconforming conditions, or conditions existing as a result of prior relief granted, and are now required only because of the much-improved reconfiguration of the parking lot. Therefore, four (4) of the variance requests (involving five sections of the Zoning Code) are de minimis, requiring no showing of hardship.

Virtually any modification to the shopping center would require zoning relief. The building addition is permitted from use and dimensional standpoints. The variances apply to the parking lot accessory to the permitted expansion of the use. The parking count variance request is fully supported by the finding of unnecessary hardship. It is impossible for the Applicant to install 1,717 parking spaces with required drive aisles and landscaping for this shopping center. Even if all of the required parking spaces could be installed, there would be vast areas of impervious asphalt virtually unused, and there is no practical reason to require same. The hardship imposed by the Zoning
Ordinance is clearly unnecessary, as the Applicant could never comply with the parking provisions on this particular property. So, the Board is left with a decision as to what degree to grant relief from the parking provisions, or just deny virtually every request to modify, add to, or simply improve the operation of the shopping center. This is not a situation where a vacant lot can support a building and required parking for a permitted use, but the applicant wishes to construct a larger building on the lot with less parking merely for economic reasons. The conditions causing the hardship on this property currently exist, and it is impossible for the Applicant to comply with the parking requirements for the existing permitted uses, even without adding the additional retail space. The Applicant simply cannot comply with the current parking requirements as applied to this property because of the size of the lot, numerous nonconforming conditions, and conditions existing as a result of prior relief from this Board. Under these circumstances, the Board is authorized to grant the dimensional variance for the reduction of parking spaces. *Monnalt Partners v. Zoning Hearing Board of the Municipality of Monroeville*, 2017WL1737927 (Unreported Commonwealth Court Decision cited for its persuasive value and not as binding precedent). The expert testimony of the Applicant’s engineer has assured the Board that the parking variances would have no adverse impact, the proposed parking will be adequate, and the shopping center will now function better than ever before.

The Zoning Hearing Board is sympathetic to the concerns of the Objectors regarding lights, car exhaust and trash, and the Board has imposed strict conditions in this approval to address such concerns. It must be noted however, that the Objectors’ main concerns were with reference to the operation of the shopping center in general, not the parking count. Their main complaints were with reference to the area of existing lawful parking areas near their property. In fact, the Objectors advocated for a further reduction in parking spaces in that area of the lot. It must also be noted that the conditions about which the Objectors complained must be expected to exist when one buys a house adjoining the rear of an existing shopping center. No doubt, the proposed improvements and
extensive buffer proposed will help to limit and control such objectionable conditions.

IV. CONCLUSIONS OF LAW

1. The Zoning Hearing Board has jurisdiction over the subject matter of the application.

2. The Applicant is the owner/operator of the property in question.

3. The Applicant and the subject matter are properly before the Board. The Applicant has standing to submit the application. The Objectors have standing to oppose the application.

4. Hearing notices were duly published and posted in accordance with law, by advertisement in the newspaper and posting on the property.

5. With reference to the variances requested, upon consideration of Section 910.2 of the Pennsylvania Municipalities Planning Code, the Board determines the following as a matter of law:

   A. There are unique physical circumstances and conditions, including the size of the property as related to the existing use, and existing lawful nonconforming conditions peculiar to this property, creating an unnecessary hardship which justifies the granting of the parking variances.

   B. The Applicant presented uncontroverted credible evidence for the Board to conclude that the property cannot be developed, and, for that matter, cannot be modified, updated, or improved, in strict conformity with the Zoning Ordinance.

   C. The hardship arises from the physical circumstances and conditions unique to this property, and has not been created by the Applicant.

   D. The granting of the variances will not frustrate the intent of the Zoning Ordinance, and considering the conditions imposed by the Board, the proposal will not adversely impact the development of adjoining properties, or alter the essential character of the neighborhood.

   E. The variances requested are the minimum variances to afford relief.

6. Under Section 116-217 of the Zoning Ordinance, the Board determines the following, as a matter of law:

   A. The use will not substantially injure or detract from the use of neighboring property or from the character of the neighborhood, and the use of property adjacent to the area of the proposed use will be adequately safeguarded by the conditions imposed by the Board.
B. The proposed use will not have a harmful effect on local vehicular and pedestrian traffic.

C. The proposed use is consistent with the legislative intent of the CR-H Commercial Retail High.

D. The surrounding neighborhood will not be subjected to objectionable noise, lighting, glare, heat, ventilation, smoke, fumes, vapors, dust, dirt, gases or radioactive or electrical disturbances from the proposed use, provided that the Applicant strictly complies with the extensive conditions imposed by this Decision and Order.

E. The proposed use will not unduly burden sanitary, school, police, fire, park or other public facilities.

7. The majority of the relief requested is de minimis in nature, and the required parking count provisions of the Zoning Ordinance, strictly applied, impose an unnecessary hardship on the property and the Applicant. Therefore, the following variances should be granted on a de minimis basis:

1. A variance from Section 116-24.D(3), so as to permit the existing 49% of the rear yard area to be devoted to accessory uses (90° parking in place of angled parking), rather than the 30% allowed.

2. Variances from Section 116.93.E and 116.24.E(3)(a), so as to permit modifications to parking in the front yard adjacent to Butler Pike.

3. A variance from Section 116-184.E, so as to permit parking areas and double rows of parking to be separated from each other by planting strips less than 10 feet in width.

4. A variance from Section 116-184.F, so as to permit several new parking spaces located less than the required 10 feet from the proposed building.

The following variance should be granted on the basis of hardship:

A variance from Section 116-184, so as to permit 340 parking spaces, rather than the 1,717 spaces required.
V. OPINION

Upon consideration of the Findings of Fact and Conclusions of Law, the Board hereby determines that the application should be granted as set forth hereinafter in the Decision and Order.
WHITEMARSH TOWNSHIP ZONING HEARING BOARD

DECISION AND ORDER

APPLICATION NO.: 2018-29

APPLICANT: Brixmor Property Group
Block 001, Unit 001
10 East Ridge Pike
Conshohocken, PA 19428
CR-H – Commercial Retail High District

FIRST HEARING DATE: 12/05/18
CONT’D HEARING DATES: 01/09/19
02/06/19
VOTE: 02/06/19
WRITTEN DECISION: 03/12/19
COPY MAILED: 03/12/19

After completion of public hearings on the above-referenced Application, pursuant to public notice as required by law, the Zoning Hearing Board of Whitemarsh Township decided and orders as follows:

1. A variance from Section 116-24.D(3), so as to permit the existing 49% of the rear yard area to be devoted to accessory uses (90° parking in place of angled parking), rather than the 30% allowed, is GRANTED.

2. Variances from Section 116.93.E and 116.24.E(3)(a), so as to permit modifications to parking in the front yard adjacent to Butler Pike, are GRANTED.

3. A variance from Section 116-184, so as to permit a minimum of 340 parking spaces, rather than the 1,717 spaces required, is GRANTED.

4. A variance from Section 116-184.E, so as to permit parking areas and double rows of parking to be separated from each other by planting strips less than 10 feet in width, is GRANTED.

5. A variance from Section 116-184.F, so as to permit several new parking spaces located less than the required 10 feet from the proposed building, is GRANTED.
THIS DECISION IS SUBJECT TO THE FOLLOWING CONDITIONS:

1. All use and development permitted by this Decision shall substantially conform to the exhibits and testimony presented by the Applicant, unless inconsistent with any specific conditions imposed by this Board, in which case these specific conditions shall take precedence.

2. The Applicant shall apply for and obtain all permits required by the Township Codes in a timely manner.

3. The Applicant shall comply with all requirements of the Township related to Land Development approvals. The Applicant shall provide copies of the Land Development Plans to the Objectors, McCarrick, as well as notice of any public meetings with respect to such proceedings.

4. The Applicant shall install and maintain new 6' high fencing (to the extent permitted by Code) and 6'-12' high landscaping along the eastern boundary of the property, as shown on the plan marked as Exhibit A-18, to the satisfaction of the Township.

5. The Applicant shall not permit seasonal sales with tents or trailers.

6. The Applicant shall take all commercially reasonable measures, to the satisfaction of the Township, and to the maximum extent permitted by law, including, but not limited to, actions in court, so as to assure that tenants require employees to utilize parking behind the buildings. All future leases shall also require same.

7. The Applicant shall take all commercially reasonable measures, to the satisfaction of Township, and to the maximum extent permitted by law, including, but not limited to, actions in court, so as to assure that tenants comply with the Peace and Good Order Ordinance and noise ordinances of the Township as related to truck deliveries and trash removal.

8. Any restaurant in the proposed new building (which would require a future Special Exception not granted hereby) shall not exceed 3,500 square feet.

9. The Applicant shall post signs prohibiting cars or trucks idling near the adjacent McCarrick property, and the Applicant shall take all commercially reasonable measures to enforce this restriction.

10. The Applicant shall take all commercially reasonable measures so as to assure that trash is regularly cleared from the property, and that trash remains in the trash containers.

11. The Applicant shall take all commercially reasonable measures so as to assure the shopping cart corrals do not occupy or encroach on the designated parking spaces.
12. To the satisfaction of the Township, the Applicant shall install new lighting in the parking lot and the lighting to the rear of the shopping center shall not spill over onto the residences.

13. The Applicant shall provide to the Township, the Police, John and Mary Ellen McCarrick and Andrew Borstein, contact information for the Brixmor point person for concerns and complaints.

This Decision and Order of the Board is final and any appeal of it must be filed with the Court of Common Pleas of Montgomery County within thirty (30) days following the copy mailing date set out above.

The Board reserves the right to supplement these Findings of Fact and Conclusions of Law in the event of an appeal.

Section 116-223 of the Zoning Ordinance provides as follows:

Expiration of granted appeals. Unless otherwise specified by the Board, all approvals granted by the Zoning Hearing Board shall automatically expire 365 days after the date of the decision unless: (1) the applicant has acted upon the approval by obtaining the required permit(s) and paying the prescribed fees for same, or (2) the Zoning Hearing Board decision is on appeal to the courts, at which point, the approval, if upheld on appeal, shall expire 365 days after final determination on appeal.

The Zoning Hearing Board may extend the expiration date of approvals for a 180 day period upon request by the applicant, provided that the applicant is, in the opinion of the Zoning Hearing Board, diligently pursuing governmental and/or regulatory approvals as required. Requests for extensions shall be in writing and submitted to the Zoning Hearing Board at least 30 days before any applicable expiration date. Only one (1) extension may be provided for any application.
WHITEMARSH TOWNSHIP ZONING HEARING BOARD:

Marc Weinstein, Chair

Stanley A. Casacio, Vice Chair

Robert A. Bacine

James Behr

Alternate

William L. Kramer

Randi Rubin

Dissent
WHITEMARSH TOWNSHIP ZONING HEARING BOARD

DECISION AND ORDER

APPLICATION NO.: 2016-16
APPLICANT: Cellco Partnership d/b/a Verizon Wireless
Block 001, Unit 001
10 East Ridge Pike
Conshohocken, PA 19428
CR-H – Commercial Retail District

FIRST HEARING DATE: 07/13/16
CONT’D HEARING DATES: 08/03/16, 10/05/16
VOTE: 10/05/16
WRITTEN DECISION: 10/11/16
COPY MAILED: 10/11/16

The Applicant proposes to replace an existing 25’ light pole with a 30’ light pole and add two (2) cellular antennas at a height of 30’ 9”. The Applicant will also install an equipment cabinet and utility backboard on a 36 square foot concrete pad.

After completion of a public hearing on the above-referenced Application, pursuant to public notice as required by law, the Zoning Hearing Board of Whitemarsh Township decided and orders as follows:

1. Variances from Section 116-93C, to allow a 36 square foot increase in impervious coverage and a 36 square foot reduction in minimum green space area, are GRANTED.

2. Variances from Section 116-302A(1) and 116-302A(4)(c) to allow the proposed telecommunications facility to be within 500’ of a lot in residential use and a residential district boundary, are GRANTED.

3. Variances from Section 116-302A(4)(c) to allow the proposed telecommunications facility to be within the front yard setbacks of both Butler and Ridge Pikes so as to be located 22’ 2” from the Butler Pike ultimate right of way line, and 20’ from the East Ridge Pike ultimate right of way line, are GRANTED.

4. A Variance from Section 116-302F(1), to allow the installation of the proposed telecommunications facility without a security fence, is GRANTED.
THIS DECISION IS SUBJECT TO THE FOLLOWING CONDITIONS:

1. All use and development permitted by this Decision shall conform to the exhibits and testimony presented by the Applicant, unless inconsistent with any specific conditions imposed by this Board, in which case these specific conditions shall take precedence.

2. The Applicant shall apply for and obtain all permits required by the Township Codes in a timely manner.

3. The Applicant shall provide to the Township a copy of a fully-executed redacted lease with respect to the Applicant’s use of the property, and a revised plan showing the correct impervious coverage percentages based on the relief granted.

4. The equipment cabinet shall be screened with evergreen landscaping, so as to shield the view of the equipment cabinet.

5. In the event that the facility is not in use for a continuous period of one (1) year, the equipment shall be removed at the cost of the Applicant/Owner within six (6) months.

This Decision and Order of the Board is final and any appeal of it must be filed with the Court of Common Pleas of Montgomery County within thirty (30) days following the copy mailing date set out above.

Section 116-223 of the Zoning Ordinance provides as follows:

Expiration of granted appeals. Unless otherwise specified by the Board, all approvals granted by the Zoning Hearing Board shall automatically expire 365 days after the date of the decision unless: (1) the applicant has acted upon the approval by obtaining the required permit(s) and paying the prescribed fees for same, or (2) the Zoning Hearing Board decision is on appeal to the courts, at which point, the approval, if upheld on appeal, shall expire 365 days after final determination on appeal.

The Zoning Hearing Board may extend the expiration date of approvals for a 180 day period upon request by the applicant, provided that the applicant is, in the opinion of the Zoning Hearing Board, diligently pursuing governmental and/or regulatory approvals as required. Requests for extensions shall be in writing and submitted to the Zoning Hearing Board at least 30 days before any applicable expiration date. Only one (1) extension may be provided for any application.
WHITEMARSH TOWNSHIP ZONING HEARING BOARD:

Robert A. Bacine, Chair
Marc Weinstein
James Behr

William E. Kramer, Vice Chair
Stanley A. Casacio
Alternate

Randi Rubin
WHITEMARSH TOWNSHIP ZONING HEARING BOARD

DECISION AND ORDER

APPLICATION NO.: 2010-20
APPLICANT: Giant Food Stores, LLC
Block 001, Unit 001
10 Ridge Pike
Conshohocken, PA 19428
CR-H Commercial Retail District

FIRST HEARING DATE: 12/01/10
DECISION: 12/01/10
COPY MAILED: 12/02/10

The Applicant proposes to install an additional sign mounted on the building front thereby increasing the overall area of signage from 151.25 square feet to 215.45 square feet for an aggregate increase of 64.2 square feet.

After completion of a public hearing on the above-referenced Application, pursuant to public notice as required by law, the Zoning Hearing Board of Whitemarsh Township decided and orders as follows:

1. A variance from Section 116-206.A(2)(b) to permit a 64.2 square foot increase in signage is GRANTED.

2. A modification to Zoning Hearing Board Case No. 2006-58 is GRANTED.
THIS DECISION IS SUBJECT TO THE FOLLOWING CONDITIONS:

1. All use and development permitted by this Decision shall conform to the exhibits and testimony presented by the Applicant, unless inconsistent with any specific conditions imposed by this Board, in which case these specific conditions shall take precedence.

2. The Applicant shall apply for and obtain all permits required by the Township Codes in a timely manner.

This Decision and Order of the Board is final and any appeal of it must be filed with the Court of Common Pleas of Montgomery County within thirty (30) days following the copy mailing date set out above.

Section 116-223 of the Zoning Ordinance provides as follows:

Expiration of granted appeals. Unless otherwise specified by the Board, all approvals granted by the Zoning Hearing Board shall automatically expire 365 days after the date of the decision unless: (1) the applicant has acted upon the approval by obtaining the required permit(s) and paying the prescribed fees for same, or (2) the Zoning Hearing Board decision is on appeal to the courts, at which point, the approval, if upheld on appeal, shall expire 365 days after final determination on appeal.

The Zoning Hearing Board may extend the expiration date of approvals for a 180 day period upon request by the applicant, provided that the applicant is, in the opinion of the Zoning Hearing Board, diligently pursuing governmental and/or regulatory approvals as required. Requests for extensions shall be in writing and submitted to the Zoning Hearing Board at least 30 days before any applicable expiration date. Only one (1) extension may be provided for any application.

However, note:
Act 46 of 2010 provides for a suspension of the expiration of certain governmental approvals under the Pennsylvania Municipalities Planning Code until July 1, 2013.
WHITEMARSH TOWNSHIP ZONING HEARING BOARD:

James Behr, Chair

William E. Kraimer

Jack Cohen

(Absent)

Robert A. Bacine, Vice Chair

Marc Weinstein

(Alternate)

Randi Rubin Goldstein
WHITEMARSH TOWNSHIP ZONING HEARING BOARD

DECISION AND ORDER

APPLICATION NO.: 2009-34
APPLICANT: Giant Food Stores, LLC
Block 001, Unit 001
10 Ridge Pike
Conshohocken, PA 19428
CR-H Commercial Retail District

FIRST HEARING DATE: 12/14/09
DECISION: 12/14/09
COPY MAILED: 12/15/09

After completion of a public hearing on the above-referenced Application, pursuant to public notice as required by law, the Zoning Hearing Board of Whitemarsh Township decided and orders as follows:

1. A variance from Section 116-93D of the Zoning Ordinance so as to permit a 4.33’ additional encroachment into the 100’ required rear yard, in addition to the existing encroachment, to construct a 309.34 square foot addition onto the southern side of the Whitemarsh Shopping Center in order to accommodate a new elevator and elevator equipment room located 21.53’ from the property line is GRANTED.

2. A special exception pursuant to Section 116-203 of the Zoning Ordinance so as to permit the additional encroachment into the required rear yard is NOT NECESSARY.
THIS DECISION IS SUBJECT TO THE FOLLOWING CONDITIONS:

1. All use and development permitted by this Decision shall conform to the exhibits and testimony presented by the Applicant, unless inconsistent with any specific conditions imposed by this Board, in which case these specific conditions shall take precedence.

2. The Applicant shall apply for and obtain all permits required by the Township Codes in a timely manner.

This Decision and Order of the Board is final and any appeal of it must be filed with the Court of Common Pleas of Montgomery County within thirty (30) days following the copy mailing date set out above.

Section 116-223 of the Zoning Ordinance provides as follows:

Expiration of granted appeals. Unless otherwise specified by the Board, all approvals granted by the Zoning Hearing Board shall automatically expire 365 days after the date of the decision unless: (1) the applicant has acted upon the approval by obtaining the required permit(s) and paying the prescribed fees for same, or (2) the Zoning Hearing Board decision is on appeal to the courts, at which point, the approval, if upheld on appeal, shall expire 365 days after final determination on appeal.

The Zoning Hearing Board may extend the expiration date of approvals for a 180 day period upon request by the applicant, provided that the applicant is, in the opinion of the Zoning Hearing Board, diligently pursuing governmental and/or regulatory approvals as required. Requests for extensions shall be in writing and submitted to the Zoning Hearing Board at least 30 days before any applicable expiration date. Only one (1) extension may be provided for any application.
WHITEMARSH TOWNSHIP ZONING HEARING BOARD:

Jack Cohen, Chair

James Behr, Vice Chair

Robert A. Bacine (ABSENT)

William E. Kramer

Marc Weinstein

Randi Rubin Goldstein
WHITEMARSH TOWNSHIP ZONING HEARING BOARD

DECISION AND ORDER

APPLICATION NO.: 2006-58
APPLICANT: Giant Food Stores, LLC
Block 001, Unit 001
10 Ridge Pike
Conshohocken, PA 19428
CR-H Commercial Retail District

FIRST HEARING DATE: 01/08/07
DECISION: 01/08/07
COPY MAILED: 01/09/07

After completion of a public hearing on the above-referenced Application, pursuant to public notice as required by law, the Zoning Hearing Board of Whitemarsh Township decided and orders as follows:

1. A Variance from the terms of Section 116-212 A. of the Whitemarsh Zoning Code to replace two (2) existing signs and thereby reduce the overall square footage of signage from one-hundred, ninety-six (196) square feet to approximately one-hundred, eighty-five (184.59) square feet for an aggregate reduction of approximately twelve (11.41) square feet is GRANTED.

2. A Modification to Zoning Hearing Board Case #1997-07 is GRANTED.
THIS DECISION IS SUBJECT TO THE FOLLOWING CONDITIONS:

1. All use and development permitted by this Decision shall conform to the exhibits and testimony presented by Applicant, unless inconsistent with any specific conditions imposed by this Board, in which case these specific conditions shall take precedence.
This Decision and Order of the Board is final and any appeal of it must be filed with the Court of Common Pleas of Montgomery County within thirty (30) days following the copy mailing date set out above.

§116-223 of the Whitemarsh Township Code provides that all Applications granted by the Board shall automatically expire 365 days after the expiration of the last day to appeal to the Court of Common Pleas of Montgomery County or to an Appellate Court, if the Applicant has failed during that time to act upon the granted Application by obtaining the granted permit and paying the required fee for same. Any request for an extension must be submitted in writing to the Board at least thirty (30) days prior to the expiration date.
WHITEMARSH TOWNSHIP ZONING HEARING BOARD

DECISION AND ORDER

APPLICATION NO.: 2004-47
APPLICANT: Starbuck Coffee Company
10 Butler Pike
Conshohocken, PA 19428

FIRST HEARING DATE: 10/06/04
DECISION: 10/06/04
COPY MAILED: 10/06/04

After completion of a public hearing on the above-referenced Application, the Zoning Hearing Board of Whitemarsh Township decided and orders as follows:

1. A Variance from §116-104(A)(6)(a) of the Code of the Township of Whitemarsh to permit outdoor eating and dining on portions of premises located within the shopping center located at West Ridge Pike and Butler Pike, Conshohocken, Whitemarsh Township is GRANTED/DENIED.

2. A Variance from §116-184(D)(6)(a) of the Code of the Township of Whitemarsh to permit outdoor patron seating without providing required additional parking spaces for outdoor dining on portions of premises located within the shopping center located at West Ridge Pike and Butler Pike, Conshohocken, Whitemarsh Township is GRANTED/DENIED.

THIS DECISION IS SUBJECT TO THE FOLLOWING CONDITIONS:

1. All use and development permitted by this Decision shall conform to the exhibits and testimony presented by Applicant, unless inconsistent with any specific conditions imposed by this Board, in which case these specific conditions shall take precedence.

Mary Ellen Antal, Chairman
Robert A. Bacine, Member
Kevin McBirney, Member

This Decision and Order of the Board is final and any appeal of it must be filed with the Court of Common Pleas of Montgomery County within 30 days following the copy mailing date set out above.

§116-223 of the Whitemarsh Township Code provides that all Applications granted by the Board shall automatically expire 365 days after the expiration of the last day to appeal to the Court of Common Pleas of Montgomery County or to an Appellate Court, if the Applicant has failed during that time to act upon the granted Application by obtaining the granted permit and paying the required fee for same. Any request for an extension must be submitted in writing to the Board at least thirty (30) days prior to the expiration date.

10/15/2004 OC: BOS/PC/ZHB
DECISION AND ORDER
WHITEMARSH TOWNSHIP ZONING HEARING BOARD

APPLICATION 02-52
American Bread Company
d/b/a Panera Bread

First Hearing 2/10/03 Decided 3/10/03 Copy Mailed 3/11/03

At a public hearing of the above application, the Zoning Hearing Board decides and orders as follows:

1. The Variance required from Section 116-104.A of the Whitemarsh Township Code to allow a portion of the walkway at the shopping center located at 48 Ridge Pike to be used for seasonal exterior dining is hereby granted / denied.

2. The Variance required from Section 116-184.D(6) of the Code to allow no additional parking spaces for the dining use is hereby granted / denied.

THIS DECISION IS SUBJECT TO THE FOLLOWING CONDITIONS:
1. All use and development allowed by any granted application shall conform to the exhibits and testimony presented at the hearing unless inconsistent with these conditions in which case these conditions shall take precedence.

This Decision and Order of the Board is final and any appeal of it must be filed with the Court of Common Pleas of Montgomery County within 30 days following the copy mailing date set out above.

Section 116-223 of the Whitemarsh Township Code provides that all applications granted by the Board shall automatically expire 365 days after the expiration of the last day to appeal to the Court of Common Pleas of Montgomery County or to an Appellate Court, if, during that time, the applicant has not acted upon the granted application by obtaining the granted permit and paying the required fee for same. Any request for an extension must be submitted in writing to the Board at least thirty (30) days prior to the expiration date.
DECISION AND ORDER

WHITEMARSH TOWNSHIP ZONING HEARING BOARD

APPLICATION 97-07
Clemens Market

First Hearing 4/7/97  Decided 4/7/97  Copy Mailed 4/8/97

At a public hearing of the above application, the Zoning Hearing Board decides and orders as follows:

1. The Variance from Section 116-206.A(2) of the Whitemarsh Township Code necessary to allow a 156 square foot sign to be installed on the existing supermarket at 10 Ridge Pike is hereby granted.

2. The Special Exception in accordance with Section 116-212.D.1 is hereby denied.

3. The request for an interpretation of the Code was withdrawn.

This decision is subject to the following conditions:

1. All use and development allowed by any granted application shall conform to the exhibits and testimony presented at the hearing unless inconsistent with these conditions in which case these conditions shall take precedence.

This Decision and Order of the Board is final and any appeal of it must be filed with the Court of Common Pleas of Montgomery County within 30 days following the copy mailing date set out above.

Section 116-223 of the Whitemarsh Township Code provides that all applications granted by the Board shall automatically expire 365 days after the expiration of the last day to appeal to the Court of Common Pleas of Montgomery County or to an Appellate Court, if, during that time, the applicant has not acted upon the granted application by obtaining the granted permit and paying the required fee for same. Any request for an extension must be submitted in writing to the Board at least thirty (30) days prior to the expiration date.
DECISION AND ORDER

WHITEMARSH TOWNSHIP ZONING HEARING BOARD

APPLICATION 96-18

E & L Ventures, Inc., d/b/a Movie Gallery

First Hearing 8/7/96 Decided 8/7/96 Copy Mailed 8/8/96

At a public hearing of the above application, the Zoning Hearing Board decides and orders as follows:

1. The Variance from Section 116-206.A(2)(b) of the Whitemarsh Township Code necessary to allow a sign on the side of a building located in the Whitemarsh Shopping Center at the intersection of Ridge and Germantown Pikes is hereby denied.

THIS DECISION IS SUBJECT TO THE FOLLOWING CONDITIONS:

1. All use and development allowed by any granted application shall conform to the exhibits and testimony presented at the hearing unless inconsistent with these conditions in which case these conditions shall take precedence.

NOTE: The public hearing of the Board began at 8 PM. This hearing began at 9:40 PM. No one appeared on behalf of the applicant nor had the Board or zoning officer received any notice that a delay or continuance was required for any reason.

[Signatures]

This Decision and Order of the Board is final and any appeal of it must be filed with the Court of Common Pleas of Montgomery County within 30 days following the copy mailing date set out above.

Section 116-223 of the Whitemarsh Township Code provides that all applications granted by the Board shall automatically expire 365 days after the expiration of the last day to appeal to the Court of Common Pleas of Montgomery County or to an Appellate Court, if, during that time, the applicant has not acted upon the granted application by obtaining the granted permit and paying the required fee for same. Any request for an extension must be submitted in writing to the Board at least thirty (30) days prior to the expiration date.
DECISION AND ORDER
WHITEMARSH TOWNSHIP
ZONING HEARING BOARD

APPLICATION 94-18 of Bagel Cafe, Inc.

First Hearing Date 8/3/94  Date Decided 8/3/94  Copy Mailed 8/4/94

At a public hearing of the above application, the Zoning Hearing Board decides and orders as follows:

1. The Special Exception in accordance with Section 116-104.A(6) of the Whitemarsh Township Code necessary to allow use of a location in the Whitemarsh Shopping Center at Ridge and Butler Pikes as a bagel restaurant/cafe and for catering is hereby granted / signed.

THIS DECISION IS SUBJECT TO THE FOLLOWING CONDITIONS:

1. All use and development allowed by any granted application shall conform to the exhibits and testimony presented at the hearing unless inconsistent with these conditions in which case these conditions shall take precedence.

This Decision and Order of the Board is final and any appeal of it must be filed with the Court of Common Pleas of Montgomery County within 30 days following the copy mailing date set out above.

Section 116-223 of the Whitemarsh Township Code provides that all applications granted by the Board shall automatically expire 365 days after the expiration of the last day to appeal to the Court of Common Pleas of Montgomery County or to an Appellate Court, if, during that time, the applicant has not acted upon the granted application by obtaining the granted permit and paying the required fee for same. Any request for an extension must be submitted in writing to the Board at least thirty (30) days prior to the expiration date.
DECISION AND ORDER

WHITEMARSH TOWNSHIP

ZONING HEARING BOARD

APPLICATION 94-03 of Glenmont Associates, Limited Partnership

First Hearing Date 3/3/94  Date Decided 4/7/94  Copy Mailed 4/8/94

At a public hearing of the above application, the Zoning Hearing Board decides and orders as follows:

1. The Variance from Section 116-93.D of the Whitemarsh Township Code necessary to allow an additional 1300 square feet of new building space to encroach into the required rear yard setback is hereby granted /\_\_\_\_/.

2. The Variance from Sections 116-93.E and 116-24.E(3)(a) of the Code necessary to allow an additional 2 parking spaces to be constructed in the front yard setback is hereby granted /\_\_\_\_/.

3. The Variance from Section 116-24.D(3) of the Code necessary to allow 49% of the rear yard to be used for parking and loading is hereby granted /\_\_\_\_/.

4. The Variance from Section 116-184.F necessary to allow an additional 2 parking spaces to be located within 10 feet of the building is hereby granted /\_\_\_\_/.

5. The Special Exception in accordance with Section 116-104.A(6)(a) to allow a restaurant use on the premises is hereby granted /\_\_\_\_/.

6. The Special Exception in accordance with Section 116-93.D to allow parking spaces to be located 20 feet from the B Residential District (i) on the eastern edge of the property (16 spaces), and (ii) at the western end of the southern edge of the property (16 spaces) is hereby granted /\_\_\_\_/.

7. The Board decides that the property is not presently legally nonconforming with respect to planting strips otherwise required between parking areas by Section 116-184.E so that such planting strips would be required for the proposed renovation of the tract.

8. The Variance from Section 116-184.E necessary to allow parking areas and double parking rows without planting strips between them is hereby granted /\_\_\_\_/.

9. The Variance from 116-184 to allow a minimum of 346 parking spaces on the property provided it is developed as set out in Exhibit A-2 and provided that no more than 6 7 spaces to the rear of the building be less than 10' x 15' ft. and all other parking spaces on the property be no less than 10' x 20' ft. is hereby granted /\_\_\_\_/.

CONTINUED ON NEXT PAGE
Note: Mr. Kline dissents from all decisions set out above except paragraphs 5.

THIS DECISION IS SUBJECT TO THE FOLLOWING CONDITIONS:

1. All use and development allowed by any granted application shall conform to the exhibits and testimony presented at the hearing unless inconsistent with these conditions in which case these conditions shall take precedence.

This Decision and Order of the Board is final and any appeal of it must be filed with the Court of Common Pleas of Montgomery County within 30 days following the copy mailing date set out above.

Section 116-223 of the Whitemarsh Township Code provides that all applications granted by the Board shall automatically expire 180 days after the expiration of the last day to appeal to the Court of Common Pleas of Montgomery County or to an Appellate Court, if, during that time, the applicant has not acted upon the granted application by obtaining the granted permit and paying the required fee for same.
APPLICANT: K & M Shah Associates - USA VIDEO
PROPERTY ADDRESS: 20 E. Ridge Pike, Conshohocken
ZONING DISTRICT: CRH

REQUESTED RELIEF
The applicant is requesting a variance from Section 116-206 B for the number of signs allowed for a single property.

SUMMARY OF REQUEST
Currently at this property there is a free-standing pole sign, the applicant wishes to construct an additional sign attached to the building of 35 sq.ft. It is noted that this sign is currently constructed without benefit of a Building or Zoning permit.

This case was withdrawn.
APPLICANT: K & M Shah Associates

PROPERTY ADDRESS: 20 E. Ridge Pike

ZONING DISTRICT: CRH-Commercial Retail

REQUESTED RELIEF

The applicant is requesting a variance from Section 116-209 B. and Section 116-209 F. to allow for construction of a 35 sq.ft. rooftop sign.

SUMMARY OF REQUEST

The applicant currently has an existing free-standing sign to the front of the property. They wish to construct a 35 sq.ft. rooftop sign which would require a variance to allow an additional sign as well as sign which would project higher than the roofline of the building.

SUMMARY OF HEARING

At the Zoning Hearing Board meeting of October 2, 1991, this case was withdrawn.
ZONING HEARING BOARD
WHITEMARSH TOWNSHIP

ORDER
Appeal No. 23-75        Applicant: Wynnewood Shopping Center, Inc.

We the members of the Whitemarsh Township Zoning Hearing Board, hereby adopt the following order:

The special exception is granted subject to the following conditions:

1. All garbage and trash shall be kept indoors until day of pickup, and on day of pickup, shall be placed outdoors in a dumpster.

2. Applicant shall submit a letter in a form acceptable to the Board indicating that Applicant will comply with the Building Inspector's requirements regarding ventilation system and odor removal.

s/William H. Potterton, Jr.

s/Charles S. Nough

s/Henry S. Miller

Date: November 3, 1975
ZONING BOARD OF ADJUSTMENT
TOWNSHIP OF WHITEMARSH
CHARLES H. ANTARAMIAN (SCOTTIE CLEANERS)

DECISION

Appeal No. 56 Dated October 31, 1963
Hearing Held November 19, 1963

1. INTERPRETATION: The Board adopted the following order which states its interpretation of
the Zoning Ordinance or Zoning Map as requested in your appeal:

2. SPECIAL EXCEPTION: By order of the Board, it was determined that a special exception
be granted be denied be granted subject to the following conditions:
Pursuant to Article ____, Section _____, Subsection _____ Paragraph _____ of the
Zoning Ordinance, and the decision of the Building Inspector be reversed be
confirmed be modified, because:

3. VARIANCE: By order of the Board, it was determined that:

a. Strict application of the ordinance (would not) produce undue hardship because:
s possible for this property to be used for many purposes within the zoning classification as it
exists.

b. The hardship created (is not) unique and (would) be shared by all prop-
erties alike in the immediate vicinity of this property and in the same use district, because:
are only certain permitted uses under the CR-H commercial zoning classification.

c. The variance (would) change the character of the district, because: this is one of the
specifically prohibited under CR-H and specifically allowed under CR-L zoning.
and therefore, it was further determined that the requested variance be granted
be denied be granted subject to the following conditions:

and that the previous decision of the Building Inspector be confirmed be reversed

A list of findings of fact, as determined by the Board, is attached and is part of the decision.

(If no stenographic report was made, a brief summary of testimony is also attached.)
Unless otherwise specified, any authorization by the Board for special exception, variance or conditional use shall expire if the applicant fails to obtain a building permit within six (6) months from the date of authorization of such special exception, variance, or conditional use.

TOWNSHIP OF WHITEMARSH

BOARD OF ADJUSTMENT

[Signature]
SECRETARY

APPROVED:

[Signature]

[Signature]

NOTE: Any person aggrieved by the decision of the Board of Adjustment may appeal to the Court of Common Pleas of Montgomery County. Appeal must be taken within thirty (30) days after decision of the Board.
FINDINGS OF FACT

1. The uses permitted under CR-H zoning are varied and there was no showing of any hardship in that any of these uses was impossible because of the substantial change in the character of the neighborhood.

2. The building in question is a frame structure and it was the finding of the Board that the structure was less than adequate for the proposed operation of the Applicant.

3. It was established by the Applicant that the real owner, Andorra Nurseries, Inc., contemplates a permanent type shopping center development to be constructed in and about the site in question and that under the terms of the lease adequate provisions would have been made for the Applicant in that development.

4. The proposed use is prohibited under the applicable zoning classification but specifically allowed under CR-L Commercial zoning classification.
NOTICE IS HEREBY GIVEN that the Zoning Hearing Board of Whitemarsh Township will conduct a public hearing on Monday, May 6, 1974, at 8:00 p.m. in the Township Building, Joshua Road, Lafayette Hill, Pennsylvania, to consider the following:

APPEAL 13-74 of James T. Fitzpatrick for permission to construct a garage on the premises located at 4017 South Warner Road, Lafayette Hill. The proposed structure violates the side and rear setback requirements of §33-409 of the Whitemarsh Zoning Code.

APPEAL 14-74 of Wynnewood Shopping Center, Inc. for permission to use a portion of the premises located on the southeast corner of Ridge and Butler Pikes as a restaurant. §33-1313.A.6(a) permits the proposed use only by special exception in an area zoned CR-H Commercial Retail - High.

All interested persons are invited to appear and be heard.

Zoning Hearing Board of Whitemarsh Township

Robert E. Bradshaw, Secretary
OPINION AND ORDER
BOARD OF ADJUSTMENT
WHITEMARSH TOWNSHIP

APPLICATION AND NOTICE OF APPEAL OF
ANDORRA NURSERIES, INC.

On April 26, 1962, the Board of Adjustment met to consider the above application which was advertised as a request for a special exception to use a 4 1/2 acre tract adjacent to the CR-H property at Bethlehem Pike and Ridge Pike for parking area. After due consideration it was decided that the Board could not hear the matter as a special exception but if the facts as developed were able to hear the case as a request for a variance. The transcript of testimony is attached hereto.

The Board makes reference in this decision to only one question which goes beyond all others in marking this ground as being subject to a severe hardship if the owner is forced to comply with the B Residential requirements of the Whitemarsh Township Zoning Ordinance. The topography of this property, the natural drainage in the area surrounding the subject tract of ground and the state of development in and about this tract of ground have created a serious drainage problem both as to this tract and as to the properties to the rear of it on Corson Road and beyond. After extended conferences with the Township Engineer it was learned that to remedy the present situation would require a substantial investment, something in excess of $30,000.00. Without such a drainage remedy the property in its present state is useless. The Board is of the opinion that the use as B Residential would invoke a unique hardship as to this ground.

- 1 -
Subject to the following conditions a variance is granted to the applicant to use the 4½ acre tract in question for parking.

1. The variance is granted conditionally on the submission and approval of plans by the Township Engineer and the installation of a drainage system which shall conform in its minimal aspects to the following specifications:

   a. Increase inlets in the present parking area CR-H at the Corson Road side to the requirements as set forth by the Township Engineer.

   b. The existing 30 inch storm sewer line is to remain and join the lift station to be installed.

   c. Install a 30 inch sewer line through the present drainage ditch in the middle of the proposed parking lot at right angles to Ridge Pike and extending back to the lift station to be installed. The proposed parking area is to contain drainage inlets as required by the Township Engineer.

   d. Extend an adequate forced main line from the lift station to a junction chamber in Spring Mill Road to be located approximately 200 feet from Ridge Pike on Spring Mill Road toward Corson Road.

   e. Install a new storm sewer line in Spring Mill Road from Ridge Pike to the proposed road adjacent to the desilting basin and continue said line into the desilting basin.

   f. The proposed lift station is to be maintained by Andorra Nurseries, Inc.

2. The variance is granted on the specific condition that the following landscape requirements are met.

   a. Shrubs to be planted for the entire perimeter of the existing parking lot CR-H and proposed parking lot.

   b. A chain link fence is to be installed along the rear of the existing and proposed parking lot to run parallel to Corson Road for the entire length of said area for a height of five feet.
c. Developer shall endeavor to maintain as many trees along the rear property line running parallel to Corson Road as is possible.

d. All parking areas are to be curbed at their perimeter as follows: 12 inch curbing on the Corson Road side and 6 inch curbing on the Spring Mill Road side.

3. This variance is granted subject to the following setback requirements.

a. A 35 foot buffer zone is to be maintained for the entire perimeter of the proposed parking area with the exception of the Ridge Pike frontage.

b. Any slope easement which occurs as a result of regrading shall end at the above mentioned buffer zone.

4. This variance is strictly conditioned on ingress and egress from the proposed parking area being limited to Ridge Pike. There shall be no entrances or exits to Spring Mill Road or Corson Road.

5. This variance is granted on the condition that a plan be submitted for lighting the proposed parking area in the following manner.

a. Lighting facilities shall be of a modern shielded type and in all cases shall be shielded and reflect away from the residential areas on Corson Road and Spring Mill Road.

6. Maintenance and cleaning of the proposed parking area is to be provided by Andorra Nurseries, Inc. and in all cases the buffer zone is to be thoroughly cleaned once a week.

It is understood and agreed by Petitioner that this variance is granted subject to the above conditions and that it is not precedent for further extension and variance but applies only to the tract in question. Petitioner has been advised of
these conditions, receipt and acceptance of which are acknowledged by letter signed by Petitioner and made a part of the proceedings on this application.

BY ORDER OF THE BOARD OF ADJUSTMENT

JAMES A. TALONE, Chairman

LESTER C. HAYNES

May 15, 1962

(Date Signed)
July 25, 1956

Mr. Clark Zantzinger
12 South 12th Street
Philadelphia 7, Pa.

Dear Mr. Zantzinger:

Your petition in behalf of Andorra Nurseries filed with the Whitemarsh Township Zoning Board of Adjustment requesting the board for permission to erect a large advertising sign at Butler Pike and Ridge Pike is hereby accordingly denied.

The board felt that there was sufficient advertisement with the signs that were to be placed on the front and side of the building and there was no need for a larger sign than requirements under the business zoning at this location.

Very truly yours,

Michael J. Laputka
Secretary
Whitemarsh Township
Zoning Board of Adjustments

MJJ/ph
DECISION AND ORDER

WHITEMARSH TOWNSHIP ZONING HEARING BOARD

APPLICATION 97-26

Beneficial Savings Bank First Hearing 9/8/97 Decided 9/8/97 Copy Mailed 9/9/97

At a public hearing of the above application, the Zoning Hearing Board decides and orders as follows:

1. The Variance from Section 116-206.A(2)(b) of the Whitemarsh Township Code necessary to allow a 35 square foot sign on the front of the existing supermarket at 10 Ridge Pike is hereby granted.

THIS DECISION IS SUBJECT TO THE FOLLOWING CONDITIONS:

1. All use and development allowed by any granted application shall conform to the exhibits and testimony presented at the hearing unless inconsistent with these conditions in which case these conditions shall take precedence.

This Decision and Order of the Board is final and any appeal of it must be filed with the Court of Common Pleas of Montgomery County within 30 days following the copy mailing date set out above.

Section 116-223 of the Whitemarsh Township Code provides that all applications granted by the Board shall automatically expire 365 days after the expiration of the last day to appeal to the Court of Common Pleas of Montgomery County or to an Appellate Court, if, during that time, the applicant has not acted upon the granted application by obtaining the granted permit and paying the required fee for same. Any request for an extension must be submitted in writing to the Board at least thirty (30) days prior to the expiration date.

9/11/97 CC: BOS/PC/ZHR
Comprehensive Plan Selective Update

Material from the Historic Preservation Working Group
<table>
<thead>
<tr>
<th>Item</th>
<th>Action Item</th>
<th>Phase</th>
<th>Responsible Party</th>
<th>Cost Estimate</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.4.1</td>
<td>Develop an inventory of properties listed in the National Register of Historic Places and other historic properties with architectural significance.</td>
<td>Short-term</td>
<td>Township, HARB,</td>
<td></td>
<td>Consult with local historical societies</td>
</tr>
<tr>
<td>1.4.2</td>
<td>Continue to preserve and protect properties in the Plymouth Meeting Historic District.</td>
<td>On-going</td>
<td>Township, Planning Commission, HARB</td>
<td>NA</td>
<td></td>
</tr>
<tr>
<td>1.4.3</td>
<td>Utilize the Historical Architectural Review Board (HARB) to the fullest extent possible and consider if the authority of the HARB can be expanded.</td>
<td>Near-term</td>
<td>Planning Commission, HARB</td>
<td>NA</td>
<td></td>
</tr>
<tr>
<td>1.4.4</td>
<td>Consider enacting an ordinance to allow for the local designation of historic properties.</td>
<td>Short-term</td>
<td>Township, HARB</td>
<td>NA</td>
<td></td>
</tr>
<tr>
<td>1.4.5</td>
<td>Establish design and development standards for historic properties in the Plymouth Meeting Historic District and any locally designated properties that allow for adaptive reuse. This may include provisions that allow for relief from zoning requirements such as minimum parking requirements, or impervious cover calculations, to support retention and preservation of historic properties.</td>
<td>Short-term</td>
<td>Township, HARB</td>
<td>$10,000</td>
<td></td>
</tr>
<tr>
<td>1.4.6</td>
<td>Require open space buffers, screening, or</td>
<td>On-going</td>
<td>Township, Planning</td>
<td>NA</td>
<td>Address as part of</td>
</tr>
<tr>
<td></td>
<td>enhanced setbacks between historic properties and new development projects.</td>
<td>Commission</td>
<td>zoning updates</td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>1.4.7</td>
<td>Promote an appreciation of historic resources through interpretive signage, walking or driving tours, social media, and/or brochures.</td>
<td>Near-term</td>
<td>Township, HARB</td>
<td>Printing and signage costs.</td>
<td>Consult with local historical societies</td>
</tr>
<tr>
<td>1.4.8</td>
<td>Pursue additional listings on the National Register of Historic Places of historic properties and sites in the township.</td>
<td>Near-term</td>
<td>HARB</td>
<td>NA</td>
<td></td>
</tr>
<tr>
<td>1.4.9</td>
<td>Consider applying for Certified Local Government Status.</td>
<td>Mid-term</td>
<td>Township, HARB</td>
<td>NA</td>
<td></td>
</tr>
<tr>
<td>1.4.10</td>
<td>Review the boundaries of the Plymouth Meeting Historic District and consider removal of modern-day subdivisions.</td>
<td>Short-term</td>
<td>Township, Planning Commission, HARB</td>
<td>NA</td>
<td>Remove recent subdivision on Spring Mill Road from Historic District.</td>
</tr>
</tbody>
</table>

**EARLIER IN DOCUMENT:**

Page 48: Revise as suggested on page 3 of the letter from Cory Kegerise of the PA State Historic Preservation Office.

Page 49: Add new bullet
- Older and historic buildings may provide affordable and desirable space for local businesses.
May 28, 2019

Charles Guttenplan, AICP
Director of Planning and Zoning
Whitemarsh Township
616 Germantown Pike
Lafayette Hill, PA 19444

RE: Comments on Selective Comprehensive Plan Update (Draft April 2019)
Whitemarsh Township, Montgomery County

Dear Mr. Guttenplan,

Thank you for requesting the Pennsylvania State Historic Preservation Office’s (PA SHPO) comments on the draft update to Whitemarsh Township’s Comprehensive Plan. I have reviewed the draft dated April 2019 that is available via the township website and offer the following comments and recommendations.¹

Historic preservation and historic resources are mentioned at various points in the draft plan, including in the Future Land Use mapping, as well as the Land Use element. These sections go some of the way toward achieving the Municipalities Planning Code requirement that municipal comprehensive plans include “a plan for the protection of natural and historic resources…”, but do not provide a fully realized strategy or plan. These sections are lacking in terms of information about previously identified historic resources, analysis and integration with other elements, and strategies for identifying and protecting previously unidentified historic resources.

1. The draft plan discusses historic resources in the township very narrowly, focusing almost exclusively on the Plymouth Meeting Historic District. While it is true that Plymouth Meeting is the only locally-designated historic district in the municipality, there are a number of other properties listed in the National Register of Historic Places (see chart below). None of these properties are mapped or named and it is unclear how the Actions identified in Land Use Policy 4 are intended to relate to these resources. A chart of previously identified historic resources, as documented in PA SHPO’s Cultural Resources Geographic Information System (CRGIS) is included with this letter.

2. The plan should include strategies and recommendations for surveying or further documenting historic places throughout the township. The Viewsheds and Natural Resources Policy includes a recommendation to “develop a Scenic and Natural Resources Inventory to identify key viewsheds and natural areas are identified for future protection”; a similar recommendation should be included for historic resources. The Township should undertake a comprehensive, identification-level survey of the entire municipality to gather information about older and historic properties and apply appropriate protection measures and preservation incentives.

¹ The Pennsylvania Historical and Museum Commission (PHMC) is the Commonwealth’s official history agency and is authorized to “provide information and advice on historic resources and appropriate preservation procedures to public officials, private individuals, and organizations” (Title 37, Section 502, Pennsylvania Consolidated Statutes). The State Historic Preservation Office (SHPO) administers Federal and State preservation programs pursuant to the National Historic Preservation Act of 1966, as amended and Pennsylvania State History Code. Please note that these comments are advisory in nature and nothing in this letter is intended to constitute legal advice. These comments are based upon commonly accepted best practices and policies, personal and peer experience, and existing laws, policies, and technical guidance on historic preservation. All matters of a legal nature should be referred to the Township Solicitor for legal advice.
3. The recommended Historic Resource Policy action to “continue to preserve and protect locally, state, or federally designated historic properties and districts. Review the role of the HARB in the approvals process” should be revised for specificity and clarity.

   o Per comment 1, the plan does not acknowledge properties listed in the National Register, and there is no State-level designation for historic resources, and Plymouth Meeting is the only locally-designated district, thus it is unclear what this action is intended to achieve.
   o Because the HARB, as currently constituted, is jointly administered with Plymouth Township and is limited to the Plymouth Meeting district, the suggestion that the HARB’s role in the “approvals process” is confusing. What approvals process is this action referring to?

4. The recommended action to “develop and enforce design and development standards for historic properties and districts...” should be revised for specificity and clarity.

   o Is this recommendation related specifically to the Plymouth Meeting (Local) Historic District and thus suggesting that the Township devise design standards to guide HARB and township-level decisions about COAs? This is a worthwhile and important action, but the phrasing of this recommendation is unclear about intent.
   o If this recommendation is intended to apply to other historic properties then there should be a companion recommendation to develop a program for such designations. The recommendation to “pursue additional individual listings of significant historic properties...” may be intended to address this concept. But it should be acknowledged that the township does not currently have an ordinance provision that allows for local designation and regulation of individual historic properties.
   o An important issue to make note of is the flexibility afforded historic properties in the International Existing Building Code, Americans with Disabilities Act, and National Flood Insurance Program. Each of these policies allows for some degree of relaxed compliance standards for designated historic buildings, which in some instances can be the determining factor as to whether a property is rehabilitated or demolished. Generally speaking, building and zoning code officials may apply relaxed standards or alternative compliance measures to buildings that are listed in the National Register of Historic Places, determined eligible for listing by the SHPO, or designated as historic by the municipality. The PA SHPO has advised the Department of Labor & Industry that locally designated properties should be eligible for relief if the municipality has adopted an ordinance that contains criteria for determining significance and a process for identifying, evaluating, and applying that criteria to properties throughout the municipality.

5. The recommendation to “require open space buffers between historic structures and new development projects” is laudable in spirit, but again highlights the lack of a coherent definition of historic resources and a regulatory scheme to identify and designate such
properties. This recommendation should be reinforced by companion recommendations in the Land Use Policy 3 and Quality of Life Policy 3 to support open space conservation policies and acquisition priorities for historic properties that contain open space. Historical significance should not be limited to buildings. Landscape features, agricultural fields, vistas, and natural features may all contribute to the significance and context of a historic property and these policies should be cross-referenced and reinforced.

6. Policy recommendations related to zoning, economic development, and housing fail to suggest preservation-friendly development incentives that can help encourage rehabilitation and adaptive use of older and historic properties. For example, an increasing number of Pennsylvania municipalities have included zoning provisions that provide relief from minimum parking requirements, lot setback, impervious cover calculation, and certain low-impact uses for historic properties to allow them to be more easily and predictably rehabilitated rather than demolished. The Zoning, Economic Development, and Housing elements should include recommendations that will encourage preservation outcomes.

7. The second paragraph of the callout-box related to historic districts on page 48 contains several misstatements that should be corrected for clarity.

   o “Districts can be listed in the State and National Registers of Historic Places.” This statement is incorrect, as there is no separate listing process or criteria for a State Register of Historic Places in Pennsylvania. This sentence should be changed to: “In Pennsylvania, historic districts can be listed in the National Register of Historic Places or designated by a local government.
   
   o The second sentence accurately describes the National Register but does not apply to local designation.
   
   o The third sentence should be restated: “locally designated historic districts (such as Plymouth meeting) may require owners to receive Township approval before making exterior alterations to historic properties in the district.”

8. Page 49 – Preserving Whitemarsh’s History – This page does a good job of summarizing some of the values of historic preservation but could be augmented with several other points.

   o Older and historic buildings often provide affordable and desirable space for local businesses and entrepreneurial ventures.
   
   o Preservation of historic buildings contributes to environmental sustainability by encouraging the continued use of existing resources and embodied energy.

Again, thank you for the opportunity to review the draft and provide comments on this important policy document. If you have any questions, would like additional information, or would like assistance in developing any of the suggested language, please contact me at skegerise@pa.gov or (215) 219-3824.

Sincerely,

[Signature]

Cory R. Kegerise
Community Preservation Coordinator, Eastern Region