

RESULTS OF MEETING
TOWNSHIP OF WHITEHALL
ZONING HEARING BOARD
PUBLIC HEARING
June 15, 2021

The regular meeting of the Whitehall Township Zoning Hearing Board was held at 7:00 pm, June 15, 2021, via WebEx.com.

ZONING HEARING BOARD:

Alberta Scarfaro, Chairperson
Dean Wotring, Member (did not participate in Docket #1999)
Louis Jany, Member
Steve Burda, Member
Lee Christman, Member
Ken Snyder, Alternate Member (for votes and decisions in Docket #1999 only)

TOWNSHIP PERSONNEL:

Chris Gittinger, Zoning Officer
Shari Cooper, Court Reporter

SOLICITOR:

William J. Fries, Esquire

THE MEETING WAS CALLED TO ORDER AT 7:12 PM.

The Chairperson read the Fair Housing Statement.

DOCKET #1999 – Rick Safi, King Kone and the Jungle Café, LLC – 5503 MacArthur Road, Whitehall, PA 18052. **Location: 4128 Springmill Road and 4220 Wright Lane, Whitehall, PA 18052, PIN 558060211901 and 558060014493**, the subject properties are located in R-5a High Density Residential w/o apartments and C-1 Neighborhood Commercial Zoning Districts respectively. Applicant is requesting a Special Exception pursuant to Sec. 27-64 and 27-60 to change a nonconforming use as a karate studio to a nonconforming use as a restaurant, and Variances to Sec. 27-78(E)(5) for impervious surface coverage at 4128 Springmill Road where 77.22% is proposed and 70% is the maximum allowed, Sec. 27-89 proposing planting arborvitaes along the frontage of 4128 Springmill Road on MacArthur Road instead of the 25 foot required Buffer Strip, Sec. 27-110(C)(5) proposing a private driveway at 4128 Springmill Road located 107.32 feet from the intersection of Springmill Road and MacArthur Road where 200 feet are required, Sec. 27-145(D) proposing minimum parking area aisle width of 14 feet on part of 4128 Springmill Road where 22 feet are required, and 27-145(M) for off street parking on 4220 Wright Lane within 300 feet of the restaurant use which lots are in different Zoning Districts, of the Zoning Ordinance. This Docket was continued to this Meeting with the consent of the Applicant, for votes and decisions.

The Zoning Hearing Board held an Executive Session for deliberations immediately prior to this meeting. Member, Lee Christman reviewed the transcript of the May 18, 2021 Hearing before the Executive Session.

The Applicant was represented by Marc Fisher, Esquire.

Motion by Lee Christman to grant the Special Exception pursuant to Sec. 27-64 and 27-60 to change the nonconforming use from a karate studio to a restaurant; second by Lou Jany. Motion passed 5-0. Motion by Lou Jany to grant the Variance to Sec. 27-78(E)(5) for impervious surface coverage; second by Lee Christman. Motion passed 5-0. Motion by Lee Christman to grant the Variance to Sec. 27-89 for Arborvitaes in the place of the required 25 foot Buffer Strip; second by Lou Jany. Motion passed 5-0. Motion by Lou Jany to grant the Variance to Sec. 27-110(C)(5) for a private driveway 107.32 feet from the intersection of Springmill Road and MacArthur Road; second by Ken Snyder. Motion passed 4-1. Motion by Lou Jany to grant the Variance to Sec. 27-145(D) for 14 foot minimum parking area aisle width; second by Ken Snyder. Motion passed 4-1. Motion by Lou Jany to grant the Variance to Sec. 27-145(M) for off street parking in a different Zoning District; second by Lee Christman. Motion passed 5-0.

DOCKET # 2003 – Kern Properties – 2532 Beryl Avenue, Whitehall, PA 18052. **Location: 2532 Beryl Avenue, Whitehall, PA 18052, PIN 549824921949**, the subject property is located in a R-3 Special Care Community Residential Zoning District. Applicant is appealing an Enforcement Notice dated March 25, 2021 requesting to overrule the decision of the Zoning Officer that the Applicant's Tenant is conducting a commercial enterprise in a Residential Zoning District without complying with the conditions of the Tenant's Use Permit (#013-13) regarding off-site parking on two (2) lots located in a Residential Zoning District. Continued to this meeting at the request of the Applicant.

The Applicant was represented by Keith W. Strohl, Esquire. Whitehall Township was represented by Sam Cohen, Esquire.

The Zoning Officer confirmed posting, advertising, and notice to neighboring Landowners of the Hearing, and introduced Township Exhibits 1 – 10 as the basis for the March 25, 2012 Enforcement Notice; which Exhibits were admitted into the Record.

Attorney Strohl introduced and reviewed two (2) Applicant Exhibits; which were admitted into the Record. Erin Kern, the Operator of the Day Care use on the subject property testified.

There were no other Objectors or Supporters.

Motion by Lee Christman to uphold the Appeal and overrule the Zoning Officer; second by Lou Jany. Motion passed 5-0.

DOCKET # 2005 – St. Luke's Health Network, Inc. dba Saint Lukes Hospital of Bethlehem – 801 Ostrum Street, Fountain Hill, PA 18015. **Location: 2363 MacArthur Road, Whitehall, PA 18052, PIN 549854662118**, the subject property is located in a C-2 Regional/Community Commercial Zoning District. Applicant is requesting a variance to Sec. 27-155 (B) for 2 freestanding signs (1 permitted, variance of 1 more requested); Sec. 27-155 A(3) freestanding sign to be located 5 feet from the right-of-way line of MacArthur Road (25 feet required, variance of 20 feet requested); and 10.5 feet from the right-of-way line of Schadt Avenue (25 feet required, variance of 14.5 feet requested); Sec. 27-155 A(4) freestanding sign within the clear sight triangle of MacArthur Road and Schadt Avenue as depicted on sight plan; Sec. 27-161 A(1) to place nine (9) wall signs (one (1) permitted, variance of eight (8) signs requested); Section 27-161 A(2) to install 228 square feet wall signs (150 square feet permitted, variance of 78 square feet requested); Sec. 27-145 A to install 19'-4" parking stall depths (20'-0" depth required, variance of 8" requested); Sec. 27-145 D to install 24'-4" two-way parking access aisle (90 degree parking, 25'-0" width required, variance of 8" requested).

The Applicant was represented by Steven T. Boell, Esquire. Whitehall Township was represented by Sam Cohen, Esquire.

The Zoning Officer confirmed posting, advertising and notice to neighboring Landowners of the Hearing.

Kendis Ashley Caldwell, Applicant's Project Manager, Scott Pascurski, Applicant's Engineer, David Ott of Reed Sign Co., and Michelle Koch, the Associate Director of St. Luke's Physicians Group testified. Applicant introduced eight (8) Exhibits; which were admitted into the Record.

The Zoning Officer introduced three (3) Exhibits which were admitted into the Record.

There were no other Objectors or Supporters.

The request for a Variance to Sec. 27-155(B)(2) for a second freestanding sign was declared moot; as the Applicant is only proposing one freestanding sign and will remove the existing freestanding sign. Motion by Lou Jany to grant the Variances to Sec. 27-155(A)(3) and (4) for the location of the freestanding sign; second by Dean Wotring. Motion passed 3-2. Motion by Lee Christman to grant the Variances to Sec. 27-161(A)(1) and (2) for maximum area of nine (9) wall signs; second by Lou Jany. Motion was denied 3-2. Motion by Lou Jany to grant the Variances to Sec. 27-145(A) and (B) for parking space depth and parking area aisle width; second by Dean Wotring. Motion passed 5-0.

DOCKET # 2007 – Shake Shack Enterprises c/o Brian Fung – 225 Varick Street, Suite 301, New York, NY 10014. **Location: 1457 MacArthur Road, Whitehall, PA 18052, PIN 549779598248**, the subject property is located in a C-2 Regional/Community Commercial Zoning District. Applicant is requesting a variance to Sec. 27-155 B and Sec. 27-155 A (1) of the Zoning Ordinance to install a second freestanding sign on the lot. One (1) freestanding sign is already existing accessory to the Dave & Busters. An additional internally illuminated freestanding sign is proposed for the Shake Shack measuring 30" high, with a double-face of 14"-4"x7'sf. A variance from Sec. 27-155 A (1) is also requested which limits the size of the sign face to 75 sf per side. The requested sign is 100 sf per side.

The Applicant was represented by Meredith L. Ferleger, Esquire.

The Zoning Officer confirmed posting, advertising, and notice to neighboring Landowners of the Hearing.

Brian Fung, Applicant's Construction and Procurement Manager, and Sharon Foery, Lead Permit Specialist for Jones Sign Co. testified. Applicant introduced 17 Exhibits; which were admitted into the Record.

There were no other Objectors or Supporters.

Motion by Lou Jany to grant all three Variances to Sec. 27-155 for a second freestanding sign, 27-155(A)(1) for total square footage of the freestanding sign, and 27-161(A)(1) to allow/confirm the previously approved second wall sign; second by Steve Burda. Motion passed 4-1.

DOCKET # 2008 – Brad L. Stanko – 4166 Scheidys Road, Whitehall, PA 18052. **Location: 4166 Scheidys Road, Whitehall, PA 18052, PIN 548918470942**, the subject property is located in a R-1 Very Low Density Residential Zoning District. Applicant is requesting a special exception to Sec. 27-84 H of the Zoning Ordinance regarding the addition of a 2160 sf detached accessory building (pole barn) for residential purposes only in excess of the 1144 square foot perimeter of the primary structure on the lot.

The Applicant was represented by Marc Fisher, Esquire.

The Zoning Officer confirmed posting, advertising, and notice to neighboring Landowners of the Hearing, and introduced Township Bureau Chief's letter dated May 20, 2021 confirming the Planning Commission's

recommendation to grant the Special Exception, along with Township Engineer's letter dated May 18, 2021, and Township Bureau Chief's Memorandum dated May 18, 2021; which were admitted into the Record.

The Applicant introduced one Exhibit, the site plan for the proposed accessory structure; which was admitted into the Record. The Applicant testified that the proposed accessory structure would be used mainly for storage, and also for woodworking and working on vehicles, that it would not be used for commercial purposes, there would be no access road or pathway to the proposed accessory structure from the road at this time, that it would not really alter the character of the surrounding neighborhood, and that he had spoken to a couple of neighbors. Craig White submitted a question in advance to the Zoning Officer as to why the proposed accessory structure needed to be so big. In response, the Applicant stated that he had a lot of toys. Neighbor Phil Ginder asked about the Applicant's intentions for the existing garage, fire truck access, and the steel shipping container in the yard, and stated that there are no other big pole buildings in the area. Applicant testified that everything in the yard will be placed in the proposed accessory structure, that the steel shipping container will remain to be used like a shed, that no one else will be accessing the proposed accessory structure, and that his bucket truck can safely access the rear of the yard.

There were no other Objectors or Supporters.

Motion by Lee Christman to grant the Special Exception conditioned on removing the steel shipping container, the Planning Commission's recommendations, and that no commercial business will be conducted in the proposed accessory structure; second by Alberta Scarfaro. Motion passed 3-2.

DOCKET # 2009 – Gary Easton – 5529 Summit Street, Whitehall, PA 18052. **Location: 5529 Summit Street, Whitehall, PA 18052, PIN 558071154259**, the subject property is located in a R-1 Very Low Density Residential Zoning District. Applicant is requesting variances to Sec. 27-70 E (2)(b) and (c) regarding side and rear yard setbacks for a 2nd story deck, where 25 feet and 40 feet respectively are required, and the proposed setbacks cannot be determined from the application.

The Zoning Officer confirmed posting, advertising, and notice to neighboring Landowners of the Hearing.

The Applicant testified that his house is already too close to the side property line, that the proposed deck is outside of the Township's Drainage Easement and is not a second story deck, that the proposed rear yard setback is 21 feet, and that the proposed side yard setback is 34 feet which does not require a Variance. All attachments to the Application For Variance were admitted into the Record.

There were no Objectors of Supporters.

Motion by Dean Wotring to grant the Variance to Sec. 27-70(E)(2)(b) for rear yard setback; second by Lou Jany. Motion passed 5-0.

Motion by Lou Jany to approve the May 18, 2021 Minutes; which Motion was approved unanimously.

Meeting was adjourned at 11:28 pm.