

RESULTS OF MEETING
TOWNSHIP OF WHITEHALL
ZONING HEARING BOARD
PUBLIC HEARINGS

The regular monthly meeting of the Whitehall Township Zoning Hearing Board was held at 7:00 pm on November 16, 2021, via WebEx.com.

ZONING HEARING BOARD:

Alberta Scarfaro, Chairperson
Lou Jany, Member
Steve Burda, Member
Dean Wotring, Member

TOWNSHIP PERSONNEL:

Chris Gittinger, Zoning Officer
Shari Cooper, Court Reporter

SOLICITOR:

William J. Fries, Esquire

The meeting was called to order at 7:02 pm.
The Chairperson read the fair housing statement.

DOCKET # 2002 A – JERC Partners LXII, LLC – 171 Route 173, Suite 201, Asbury, NJ 08802. **Location: 2800 Eberhart Road, Whitehall, PA 18052, PIN Part of 549847458266**, the subject property is located in a C-2 Regional/Community Commercial Zoning District. Requesting approval of Settlement Agreement for this appeal.

The Applicant was represented by Thomas J. Schlegel, Esquire.
Whitehall Township was represented by Sam Cohen, Esquire.

The proposed Settlement Agreement was not yet finalized for review.

Motion by Lou Jany to table until the December 21, 2021 meeting; second by Steve Burda. Motion passed 4 – 0.

DOCKET # 2011 – Joshua Osterhout – 4116 Third Street, Whitehall, PA 18052. **Location: 4116 Third Street, Whitehall, PA 18052, PIN 548928188060**, the subject property is located in a R-4 Medium Density Residential Zoning District. Applicant is requesting a variance to Sec. 27-18 and Sec. 27-96 (A) and (B) of the Zoning Ordinance regarding an installed fence which is closer than twelve inches to, and actually crosses over the property line onto adjacent property, without permits, inspections, or approvals. Continued to this meeting at the request of the Applicant.

The Applicant was represented by Richard Roberts, Esquire.
Robin Wagner appeared as an Objector.

The Zoning Officer testified as to publication, posting, and mailing Notice to Neighboring Landowners.

The Applicant testified that he installed the fence at issue over ten (10) years ago; but that other fences are new. He thought that two (2) wash line poles were on his property, and that the fence was located on that line. He thought he had placed the fence on the property line. He heard nothing from the Township when the fence was installed. He told the Zoning Officer that the fence had been there for years; and he thought it was on his property. He never secured a Permit for the fence. He was willing to move it to the property line if it was on his Neighbors' property. He installed the fence himself. He also paved his driveway since the fence was installed; and got a Permit after the driveway was paved. He replaced the main breaker, re-did the bathroom floors, and installed a new water heater. He secured Permits after that work was done. He did not know he needed a Permit to install the fence. He never had a survey done of his property. He spoke with the Public Works Director about paving the driveway; and was told it was all on him and the

Public Works Director didn't know if the Applicant needed a Permit for that. He confirmed that there were two (2) parts of the fence: a composite plastic/vinyl privacy fence, and a wire fence.

Robin Wagner testified that she was not familiar with the wash line poles. She and her Husband, Russell had a survey performed of their property. A copy of that survey was admitted into the Record, over the Applicant's Attorney's Objection, as Township Exhibit #2.

Chris Bear testified that he has lived approximately 150 feet behind the Applicant since December, 2019. He thought the fence was on the Applicant's property; but didn't know if it was in the Applicant's yard or not. Russell Wagner had told him that the fence was on his property and that he had had his property surveyed. Mr. Bear secured Permits before doing electric work, but not until after he had roof repairs/replacement.

Susan Emerson testified she has lived three (3) houses away from the Applicant's home for 33 years. The fence at issue was installed at least ten (10) years ago.

Motion by Steve Burda to deny the requested Variances; second by Lou Jany. Motion passed 4 – 0. Motion by Steve Burda to sustain the Township's Enforcement Notice dated June 25, 2021; second by Lou Jany. Motion passed 4 – 0.

DOCKET # 2015 – Sunshine Auto Center and Chadi Chehade – 1538 W. Chew Street, Allentown, PA 18103. **Location: 1059 Third Street, Whitehall, PA 18052, PIN 6408046147101**, the subject property is located in a C-1 Neighborhood Commercial Zoning District. Applicant is requesting a Use Variance from Sec. 27-78 (A) to allow for automotive sales at the subject property as a stand alone use; a Use Variance from Sec. 27-78 (B) to allow for automotive sales as an accessory use; and a Use Variance from Sec. 27-78 (D) to allow for automotive sales as a conditional use. Applicant also requests a variance to Sec. 27-78 (E) (5) to allow for 100% impervious coverage of the exterior surface of the property where 70% is permitted. Continued to this meeting at the request of the Applicant.

The Applicant was represented by Matthew Mobilio, Esquire.

The Zoning Officer testified as to publication, posting, and mailing Notice to Neighboring Landowners.

The Applicant offered five (5) Exhibits (photographs of the subject property and another used car sales lot nearby); which were admitted into the Record.

Chadi Chehade testified that he purchased the subject property on July 31, 2021. He described the building and property. His current automobile repair and sales business is located on Lehigh Street in Allentown. He has performed some repairs to the garage bay; has cut down a tree; and placed asphalt on the rear of the property. He spent "like" \$31,000.00. He does not plan on using the rear alley for access; and will not have any roll-back trucks or flatbed trucks accessing the property from the rear alley. His Contractor told him he did not need a permit to place asphalt on the entire property. It is not imperative that 100% of the property be impervious. He spent \$12,000.00 for the new asphalt alone. He requested permission to have as many cars on the lot as the Zoning Hearing Board would let him have. He did not check and Township Ordinances before he purchased the property. The rear paved portion of the property is approximately 7,000 square feet. The prior use of the property was an automobile glass repair facility. He is willing to remove pavement to bring the impervious coverage down to 70%.

Lou Jany commented that Whitehall Auto Sales covered 100% of its property with impervious coverage; and that the Zoning Hearing Board forced it to remove coverage in order to meet Zoning Ordinance requirements.

There were four Objectors.

Nadia Afif has two (2) children and is concerned with traffic flow, visibility in the winter when the Township plows, the noise level, and parking for the proposed automobile sales. When the Applicant cut down the tree, he took down a power line by accident.

David Lutz testified that parking is already at a premium in the neighborhood. He questioned the noise level and the use of the two (2) car garage. The Applicant testified that the two (2) car garage would only be used for storage, and that there will be no noise generated after 6:00 pm closing time.

Richard Snyder testified that there is limited space to show vehicles for sale, and that it is hard to believe there will be no truck access from the rear alley.

Hanna Alchaer testified as to the same concerns about parking, and that her two (2) children play in the rear alley most of the time.

The Applicant's Attorney stated that the vast majority of automobile sales will be conducted on-line by appointment only, and that the Applicant will not park any cars on American Street.

The Applicant testified that the proposed hours of operation are Monday through Friday from 9:30 am to 6:00 pm; Saturday from 9:30 am to 4:00 pm; and closed on Sunday. He will install accessible parking spaces as required.

The Applicant's Cousin, Leonidas Acevedo, who lives in Allentown, testified that 3rd Street is one of the most highly traveled streets in the Township and that the automobile sales will not add much traffic.

Steve Burda requested a diagram showing only 70% impervious coverage as well as a parking plan. Lou Jany agreed. The Applicant agreed to continue the Hearing to December 21, 2021 in order to submit the requested plan; and to extend time deadlines for Hearing and written decision.

Motion by Lou Jany to adjourn to December 21, 2021 for additional evidence; second by Dean Wotring. Motion passed 4 – 0.

DOCKET # 2016 – Mia Bella Hair Salon – 104 Sycamore Court, Northampton, PA 18067. **Location: 3629 E. Columbia Street, Whitehall, PA 18052, PIN 548993343045**, the subject property is located in an OS-1 Open Space Residential/Agricultural Zoning District. Applicant is requesting Use variances to Sec. 27-62 (A) and Sec. 27-68 of the Zoning Ordinance regarding a beauty salon which is not a permitted use in that zoning district.

The Applicant was represented by Timothy J. Schlegel, Esquire.

The Zoning Officer testified as to publication, posting, and mailing Notice to Neighboring Landowners.

Applicant, Laura Jorge testified that her Salon is currently located on Eberhart Road. She and her Husband are under contract to purchase the subject property conditioned on the Use Variance requested.

Four (4) Exhibits were offered and admitted into the Record.

The Applicant testified that not all of the 2,322 square feet of floor space will be accessible to clients; there are 14 parking spaces; there will be two (2) full-time and six (6) part-time employees, and two (2) receptionists. She believes the 14 parking spaces will be sufficient. The hours of operation will be Tuesday through Thursday from 9:00 am to 8:00 pm; Saturday from 8:00 am to 3:00 pm; and closed Sunday and Monday. The proposed use will include retail sale of hair products.

Lou Jany commented that what the Property Owner has done in renovating the building is unbelievable.

Attorney Schlegel withdrew the request for a Special Exception.

Motion by Lou Jany to grant the Use Variance; second by Dean Wotring. Motion passed 4 – 0.

Motion by Lou Jany to approve the October 19, 2021 Meeting minutes; second by Steve Burda. Motion passed 4 – 0.

The meeting was adjourned at 9:50 pm.