

**TOWNSHIP OF WHITEHALL  
ZONING HEARING BOARD  
OCTOBER 18, 2022  
RESULTS OF PUBLIC HEARINGS**

The Chairperson called the meeting to order at 6:59 pm. The Chairperson led the Pledge Of Allegiance. The Chairperson read the Fair Housing Statement.

**DOCKET # 2040 – NIKAL, LLC** – 3665 MacArthur Road, Whitehall, PA 18052. **Location: 3665 MacArthur Road, Whitehall, PA 18052, PIN 548993615940**, the subject property is located in a C-2A Local Commercial Zoning District. Applicant is requesting a Variance to Section 27-62(K) of the Zoning Ordinance to construct a parking deck for a hotel, restaurant, and bank, in a floodplain.

The Zoning And Code Enforcement Officer testified as to publication, posting, and mailing Notice of the Hearing to neighboring property owners.

The Applicant appeared through its Principal, Nick Lauser, and was represented by Thomas Schlegel, Esquire.

The Applicant offered four (4) Exhibits: the prior Zoning Hearing Board Decision at Docket #2025, a site plan, a deck pier plan, and e-mails to/from the Department Of Environmental Protection. Nick Lauser testified that the Department Of Environmental Protection has no problem with the parking deck proposal and that it will not increase flood elevations. He is proposing 300 parking spaces on the deck which will be supported by 114 concrete pillars. He testified that there are two (2) options for water to drain/disperse; and that he is waiting for the Department Of Environmental Protection to recommend one of them.

Dave Herman of 3601 East Columbia appeared as an Objector. He questioned why the Applicant did not have an engineer present to answer questions about the proposal.

The Applicant testified that there will be a railing or barrier around the parking area so that cars won't drive off of the deck, and that there will be lighting. He confirmed that he had none of the documentation required by section 27-171(D)(1) and (3)(d) of the Zoning Ordinance.

The Applicant's Exhibits were admitted into the Record. The Record was closed.

The Zoning Hearing Board held an Executive Session.

Motion by Steve Burda to deny the Variance; second by Lee Christman. The Applicant then requested a Continuance of the Hearing in order to bring an engineer to answer questions. That request was denied by the Zoning Hearing Board by a 3 – 2 vote. The Zoning Hearing Board then voted 5 – 0 to deny the Variance.

**DOCKET # 2041 – Whitehall T5 CGP, LLC** – 361 Summit Boulevard, Suite 110, Birmingham, AL 35243. **Location: 2603 Mickley Avenue, Whitehall, PA 18052, PIN 549845989602**, the subject property is located in a C-2 Regional/Community Commercial Zoning District. Applicant is requesting a Special Exception pursuant to section 27-80(C)(1) of the Zoning Ordinance to allow a motor vehicle repair garage and service station, and Variances to sections 27-80(E)(2)(a) and (c) of the Zoning Ordinance for a front yard setback of 25.5 feet where 50 feet are required and a side yard setback of five feet where twenty feet are required.

The Zoning And Code Enforcement Officer testified as to publication, posting, and mailing Notice of the Hearing to neighboring property owners. The Township Bureau Chief Of Planning, Zoning, And Development's September 22, 2022 letter with attachments, confirming the Planning Commissions' recommendation for approval of the Special Exception was marked as Township Exhibit #1.

The Applicant was represented by Andrew Hoffman, Esquire. Six Applicant Exhibits were marked: the Variance application, the Special Exception application, a concept plan, The September 22, 2022 letter referenced above, the Township Bureau Chief's comments memo attached thereto, and the Township Engineer's comments letter also attached thereto, and the Township Engineer's supplemental letter.

Thomas Reichl, the property Owner testified that he has owned the property since 1997. The 7<sup>th</sup> Exhibit was a copy of the Deed. He described the adjoining properties, the history of the property's uses, the use as a barber shop since 1997, and the addition built in 1999. The 8<sup>th</sup> Exhibit was a collection of photographs of the property and surrounding properties. He testified that the building could use a new roof; and that there are no sidewalks or curbing.

Victor Mickel, the Applicant's Development Project Manager testified. Exhibit #9 was an architectural design of the proposed approximately 1,700 square foot building; which is smaller than the existing building. He testified that the proposed use would provide drive-through automotive fluid change services where the customers would stay in their cars. He anticipated 30-35 customers per day. The hours of operation will be 7:00 am to 7:00 pm Monday through Saturday and 10:00 am to 5:00 pm on Sundays. There would be office and storage space and employee bathrooms. It is not financially viable to use the existing building for the proposed use.

The Applicant's Engineer, Alex Tweedie was qualified as an Expert Witness in Civil Engineering. He testified as to the dimensions of the proposed building, that the lot width and lot size are nonconforming, that the Owner/Applicant cannot add any land to the lot, and that there are no other viable uses for the lot. He testified that the neighboring Wendy's restaurant does not comply with the required front yard set back, that the proposed parking is in compliance with the Zoning Ordinance, that the proposed new building will reduce the amount of impervious surface coverage, that the private Patriot Lane will be improved with sidewalk and curbing, that there will be a net decrease in afternoon peak hour traffic trips, that the proposal fits in with the Comprehensive Plan, and that the Variances requested were the minimum required to make the proposed project viable. All of the Exhibits were admitted into the Record. The Record was closed.

There were no objectors or supporters.

Motion by Lou Jany to grant the Variances and Special Exception; second by Lee Christman. Motion passed 5 – 0.

**DOCKET # 2042 – D. R. Horton, Inc. c/o Jeff Peters** – 2060 Detwiler Road, Suite 103, Harleysville, PA 19438. **Location: 4302 Main Street, Whitehall, PA 18052, PIN 548958690932**, the subject property is located in a R-4 Medium Density Residential Zoning District. Applicant is requesting Variances to Sections 27-114(D) and (E) of the Zoning Ordinance regarding Applicant's proposal to subdivide and develop the property for 48 single family detached dwellings where thirty-six (36) lots will have average slopes between 12% and 25% and nine (9) lots will have average slopes in excess of 25%; 27 lots with average slopes between 12% and 25% will have less than the minimum required lot size and 15 of those lots will have less than the minimum required lot frontage, and all nine (9) lots with average slopes in excess of 25% will have less than the minimum required lot size and minimum required lot frontage.

The Zoning And Code Enforcement Officer testified as to publication , posting, and mailing Notice of the Hearing to neighboring property owners.

The Applicant appeared through its Principal, Er4ic Eberhardt, Land Aquisitioner, Brett George, Engineer, Brian Spray, and was represented by Nate Fox, Esquire.

The Applicant presented three (3) Exhibits: the Zoning Hearing Board application, an elevation schematic plan, and a Zoning plan.

The Applicant's Land Aquisitioner testified as to an Agreement Of Sale for the property, that the proposed homes would cost approximately \$500,000.00, would have three (3) to five (5) bedrooms, and two (2) to four (4) bathrooms. The proposed lots will comply with the R-4 Zoning District dimensional requirements but not the steep slope adjustment. The two (2) parcels to be conveyed to the adjacent Fore Company and Car Dealership will not be developed as part of this plan.

The Applicant's Engineer was qualified as an Expert Witness in Civil Engineering. He testified that this proposal will be better for the stability of ground slopes than the current agricultural use, that the new plan is based on an actual field survey and the prior plan was not, and that the proposed number of lots is the minimum required for reasonable development of the lot.

The Applicant's Exhibits were admitted into the Record.

There were seven (7) Objectors: Bruce MacLaughlin, Harold Sell, Jennifer Morgan, Elfriede Phillips, Daniel Morgan, Diane Litzenberger, and Milton Kelly. They testified as to traffic and accidents on Main Street in this area, and water run-off at the intersection of Main and Harrison Streets.

Melanie Gillespie testified in support of the request; as it will generate tax income.

William Reed testified that water does drain onto his property (4318 Main Street), and that the Landowner's other adjacent property along Route 145 had previously been for sale.

The Board held an Executive Session.

Motion by Lou Jany to grant the requested Variances subject to two (2) conditions: the pending Appeal from the prior Decision of the Board be withdrawn with prejudice, and that lots A and B not be developed as single family homes as part of this project; second by Lee Christman. Motion passed 5 – 0.

Motion by Steve Burda to approve the September 20, 2022 Minutes; second by Lou Jany. Motion passed 5 – 0.

Meeting adjourned at 9:50 pm.