

WARWICK TOWNSHIP ZONING HEARING BOARD MINUTES
September 11, 2013

Vice-Chairman Scott Goldman convened the September 11, 2013 meeting of the Warwick Township Zoning Hearing Board at 6:30 p.m. Present were Board Members Scott Goldman, Tom Matteson, Dane St. Clair, Mark Will, and Brent Schrock. Also present were Zoning Officer Thomas Zorbaugh, Zoning Hearing Solicitor Neil Albert, Court Reporter Brenda Pardun, Attorney Caroline Hoffer, Evelyn Albert, Joe Waters, Kerry Eck, Kevin Lahn, and Alex Piehl. Gary P. Klinger with the Lititz Record Express represented the press.

MINUTES APPROVAL: On a motion by Goldman, seconded by Matteson, the Board voted unanimously to approve the minutes of the June 12, 2013 meeting as submitted.

POSTING, PROOF OF PUBLICATION AND NOTICE: The Zoning Officer confirmed the posting, notice and proof of publication of the case to be heard at this evening's hearing.

HEARING PROCEDURES: For the benefit of those present, the Zoning Hearing Solicitor explained the procedure to be followed for the evening's hearing.

CASE #799, WARWICK DEVCO - SPECIAL EXCEPTION/VARIANCE: The Vice-Chairman read the zoning notice received from Warwick Devco LP, 200 Old Forge Lane, Suite 201, Kennett Square, PA 19348. The applicant is the owner of the property located at 1054 Lititz Pike, currently the Radio Shack and former Blockbuster site. The applicant is seeking a Special Exception to the Warwick Township Zoning Ordinance under Section 340-17.C.(2), pertaining to automotive filling stations in the Community Commercial Zoning District. The applicant would like to remove the existing building and replace it with an automotive filling station. The applicant is also seeking a Variance of Section 340-51.(G) to allow the existing 25' access drives instead of the 30' foot required.

Joe Waters (R.J. Waters & Associates), Kerry Eck (Ahold / Giant Food Stores), Kevin Lahn (R.J. Waters & Associates / Warwick Devco LP), and Alex Piehl (RGS Associates) were sworn in. Attorney Caroline Hoffer is also representing the Applicant. Attorney Hoffer explained that the site contains 1.75 acres and is owned by Warwick Devco LP. She explained that the proposal is to remove the existing building on the site located at 1054 Lititz Pike, which currently houses Radio Shack, and formerly, Blockbuster. She added that Radio Shack would be relocated to another site within the Shoppes at Kissel Village Shopping Center. A new fueling station for Giant would be constructed on the site. The use is permitted by Special Exception in the Community Commercial zoning district. Attorney Hoffer stated that the access drives to the site currently exist and explained that the Variance is for Access Drive "D" illustrated on the plan. She stated that the Warwick Township Planning Commission reviewed the proposal at their meeting on August 28, 2013.

Alex Piehl provided his background for the benefit of those present. He explained that the property is located approximately 200' south of the intersection of Peters Road and Lititz Pike. He noted that the property is the former Blockbuster / Radio Shack building. He stated that during the Giant gas point redemption hours, one of the driveways to Access Drive "D" would be eliminated, and the other would be designated as in only. The driveway to Access Drive "B" would be exit only. This would provide better vehicle circulation and stacking during these peak traffic hours. Piehl provided a photograph of an existing fueling station and canopy with brick piers. He added that fuel prices would be included on the proposed sign for the fueling station and not on the canopy as illustrated. He noted that the existing pylon for the Blockbuster sign would be used for the fueling facility. The plan proposes 12 fueling stations (6 two-sided pumps), a 128 square foot kiosk, subsurface fuel storage tanks, a vending area, and 3 parking spaces. He noted that the facility would be associated with Giant Food Stores; however, it would not include the convenience store that is located in other similar fueling facilities in the County. Piehl explained that an attendant would be on-site during the facility's operating hours.

Piehl addressed the Township Engineer's comment letter dated August 26, 2013. He explained that the Applicant met with Township staff to review the proposal. He noted that the traffic assessment was performed by John Schick at Rettew Associates and he worked with the Township Engineer during the process.

Piehl stated that in an attempt to improve traffic circulation at the site, the existing traffic pattern at Access Drive B and Peters Road would need to be modified. In addition, the existing traffic island at the intersection would need to be removed and a new one reconstructed westward of the current location. He explained that the improvements to the intersection would include modifying the through and left-turn lane to a dedicated left-turn lane, and the right-turn lane would be modified to include through traffic. He added that the traffic improvements as proposed are agreeable to the Township's traffic engineer. Piehl stated that the request for a 5' Variance is for the existing access point from Access Drive "D", which currently operates at an acceptable level of service. He explained that vehicle access at this point would remain acceptable.

Attorney Hoffer reviewed the criteria under Section 340-51 of the Zoning Ordinance pertaining to Automobile Fueling Stations. Piehl indicated that the application would meet the requirements with the exception of the 30' wide access drive. Attorney Hoffer stated that since the use is not detrimental to the surrounding area, and based on case law, the Variance could be considered dimensional in nature.

Kerry Eck confirmed that the Applicant is agreeable to a condition that traffic improvements to Access Drive "B" would be completed as illustrated in accordance with the Giant Fueling Facility. Eck confirmed that he is also agreeable to the condition to use brick piers, and that only the store name and not fuel costs would be included on the canopy.

The Vice-Chairman requested clarification of whether or not fuel trucks could access the site. Piehl stated that the stripes illustrated on the sketch plan are painted lines and confirmed that a template was used in the design to ensure trucks could access the site.

The Code and Zoning Officer stated that the Planning Commission recommended 3 conditions and the Applicant has indicated his agreement with the conditions. He noted that this site and the CVS Store are separate from the Shoppes at Kissel Village Land Development Plan. The Code and Zoning Officer stated that Township staff reviewed the option to align the access point for the Giant Fueling Station with the Wendy's site to allow for through traffic behind Wendy's and Rita's; however, representatives of Wendy's requested that their circulation remain unchanged. Piehl stated that the operation hours of the fueling facility would be 6:00 a.m. to 11:00 p.m. The Code and Zoning Office inquired whether the Access Drive "B" design at the intersection with Peters Road has been discussed with representatives of CVS. The Applicant confirmed that the issue has been discussed with CVS representatives. Piehl stated that the architecture and design of the facility will match the overall shopping center site using a brick facade.

Matteson inquired whether the new proposed access point to Access Drive "B" is the appropriate distance from the intersection of Access Drive "B" and Access Drive "D". Piehl stated that he verified that the distance is in accordance with the Zoning Ordinance. Matteson expressed the opinion that several access points exist which would generate increased vehicular movement. Piehl stated that the original plan was to only use the access point to Access Drive "B" during the peak gas point redemption period; however, the Planning Commission suggested that the access point remain open at all times. Matteson inquired how Wendy's representatives have the authority to say the access point on this site can not align with the access point on the Wendy's site. The Code and Zoning Officer stated that Wendy's concern is over the two way traffic behind their site that is currently one way and the impacts to parking and their drive-through area. Matteson stated that the access point on Wendy's was also proposed to be two-way at some point. He noted that the access is two-way where it crosses the adjoining Rita's site. Attorney Hoffer stated that if the Special Exception is approved, the conditions imposed would be part of the Land Development plan, and since the access points are still a point of discussion, she requested that these discussions be considered as part of any approval. She added that at this time, the access point to Access Drive "B" is proposed to be open at all times. The Vice-Chairman expressed the opinion that at other Giant fueling locations, the point redemption period is the only time when access issues occur.

Eck stated that the Giant logo are desired on at least 2 sides of the canopy. The Code and Zoning Officer stated that signs are permitted on all sides having frontage, and since this site has 3 frontages, the canopy could have a logo on 3 sides in accordance with the Ordinance (in addition to a free standing sign). Attorney Hoffer requested that Applicant's Exhibits 1-6 be entered into the record for the hearing.

Matteson stated that based on the plan, it appears there is not a 75' separation between the access point to Access Drive "B" and the intersection of Access Drive "B" and Access Drive "D". Piehl stated that he did not interpret that the access point is included in the required 75' separate distance. Matteson clarified that he does not object to the distance as proposed, he simply wanted clarification of whether the issue should be included as part of the Zoning Hearing so it does not become an issue during the Land Development portion of the project. Matteson added that Section 340-51 also includes the 75' separation requirement. Attorney Hoffer expressed the opinion that the separation distance is not required since the access drives are along different frontages. The Code and Zoning Officer asked the Zoning Hearing Solicitor whether or not a Variance is needed, since the Planning Commission requested the second access point. The Zoning Hearing Solicitor responded that it would depend on whether or not they considered that the request may require a Variance. He added that he would agree that these are two different frontages and recommended that the Zoning Hearing Board consider an amendment to include a reduction in the 75' separation distance as well as the reduction of access drive width. Matteson stated that the other issue would be the one-way exit point that is only 15' wide, as well as Access Drive "B" and Access Drive "D" (which are 25' wide). Attorney Hoffer requested an amendment to reduce the internal access drive from 30' to 15' and the reduction of a 75' separation distance, as well as the reduction of access drive width from 30' to 25' for Access Drive "B" and Access Drive "D". The Vice-Chairman requested clarification of whether or not the Planning Commission reviewed the plan for the access point along Access Drive "B". Piehl stated that the plan was a result of a discussion with the Planning Commission, since the original Sketch plan did not include the access point. Will inquired why the issue can not be addressed with Wendy's to provide the 75' separation. The Code and Zoning Officer stated that if Wendy's wants 2 drive-through lanes, it would be impacted by a two-way access with this site, but at such time Wendy's submits a new proposal, it can be addressed. In addition, storm water issues and parking would also be impacted by two-way traffic. The Zoning Hearing Solicitor stated that the Zoning Hearing Board can not require action by an off-site property owner as part of this plan. Matteson stated that the access points could both be designated as one-way exits even if they align. The Vice-Chairman suggested that the issue be tabled this evening to clarify the access issues. Piehl stated that the reason the access points do not align along Access Drive "B" is due to the stacking for the point redemption period. If the access point is moved to the south, vehicles would have to continue around the site to this point, and the traffic engineer recommended this northern location to minimize opposing vehicular movement on the site. He added that Wendy's only controls whether or not their access point is two-way. Additional discussions ensued regarding access issues. Attorney Hoffer stated that if the Board determines that an amendment would be required, she would publicly request the amendment at the next hearing since there would not be sufficient time to submit a new Variance request. The Zoning Hearing Solicitor stated that he would be agreeable to an amendment at next month's meeting since all interested parties are present this evening.

On a motion by Goldman, seconded by St. Clair, the Board voted unanimously to continue Case #799 to their regularly scheduled meeting on October 9, 2013 to provide additional time to clarify access issues relating to this case. The Zoning Hearing Solicitor announced that the Zoning Hearing Board will meet in an Executive Session at 6:00 p.m. prior to next month's meeting to review the interpretation on the access issue.

ADJOURNMENT: With no further business to come before the Board, the meeting was adjourned at 8:05 p.m.

Respectfully submitted,

Thomas Zorbaugh
Zoning Officer