

**WARWICK TOWNSHIP ZONING HEARING MINUTES
WARWICK TOWNSHIP MUNICIPAL BUILDING
JANUARY 10, 2024
6:30 P.M.**

Acting Chairman Tom Matteson convened the January 10, 2024 meeting of the Warwick Township Zoning Hearing Board to order at 6:30 p.m. In attendance were board members Tom Matteson, Dane St. Clair, Mark Will, Dana Clark, and Brett Nolt. Also in attendance were Tom Zorbaugh, Code & Zoning Officer; Neil Albert, Township Solicitor; Allen Blank, Court Reporter; Kevin Wolfe, NAI Keystone, Wyomissing, PA; Dwight Yoder, Gibbel, Kraybill & Hess; Eric Crouse, Crouse Concrete; Aaron Shelly, 2054 William Penn Way; Kevin Varner, Diehm & Son; Robin White, Gibbel, Kraybill & Hess; Deb Ressler, 569 Millway Road; and Scott Bender, 521 Hummingbird Drive, Lititz.

ELECTION OF OFFICERS: T. Matteson stated that if everyone is comfortable remaining in their roles from last year and nobody else wants to run for a different role, we can make one motion to reappoint everyone back to their same positions for another year.

- a. Chairman (Conducts remainder of meeting) – Tom Matteson
- b. Vice-Chairman – Mark Will
- c. Secretary – Dana Clark

On a motion by T. Matteson and seconded by D. St. Clair, the Board unanimously approved the election of officers for 2024.

MINUTES APPROVAL: On a motion by T. Matteson and seconded by M. Will, the Board unanimously approved the December 13, 2023 minutes as submitted with the addition of the name being added to Case #915 on the last page of the minutes to read Case #915 – Compass Mill.

MEETING PROCEDURE: For the benefit of those present, the Solicitor explained the procedure to be followed for this evening's hearing.

POSTINGS, PROOFS OF PUBLICATION AND NOTICES: T. Zorbaugh confirmed that the cases were properly posted and advertised as required by law. The agenda was posted at the Township Office and on the Township website.

CASE #947: An application has been received from Karel Minor, President/CEO of Humane Pennsylvania, 1729 N. 11th Street, Reading, PA. Humane Pennsylvania is the equitable owner of the property located at 1639 Rothsville Road, Lititz, within the MU Zoning District, currently owned by Dana Lee Rook. The

applicant is requesting a Special Exception of Section 340-113, to allow the building to be used as a receiving, distribution and logistics warehouse, as a substitution of a nonconforming use from the Warwick Township Zoning Ordinance. The application has been assigned Case #947 and is scheduled for a public hearing this evening. Kevin Wolfe was affirmed by the court reporter.

Mr. Wolfe is a board member for Humane PA. Humane PA is a non-profit organization servicing Berks County offering veterinary services, veterinary hospitals, supply pet services, shelters, and kennels. They currently have a facility near Tanger Outlets on Route 30 in Lancaster. They are headquartered out of the Reading area. Mr. Wolfe stated that the building would be used for pure storage, warehousing of extra supplies and equipment to service the hospitals in Lancaster and Reading and the kennel operation proposed for near the Tanger Outlets location. There will very likely be 1 or 2 employees on a daily basis but very much on a need be basis. There will be no pathogens onsite. T. Matteson asked if they would have truck traffic. Mr. Wolfe stated that they do get dog food and food delivered in but very rarely. It would mostly be box trucks rather than 18-wheelers. T. Zorbaugh asked about the hours of business. Mr. Wolfe stated that the business hours would be 9 a.m. to 5 p.m. Monday through Friday. There may be a rare occasion that an event is held and they need supplies or equipment from the facility. An employee may on a rare occasion be accessing the property after hours. There would be no events hosted at the site. D. St. Clair asked if there would be any drugs stored in the facility and if so would they be secured. Mr. St. Clair mentioned that Lititz Veterinary Clinic was broken into by drug addicts looking for things resulting in one of the veterinarians being cut in the face. Mr. Wolfe stated that he does not believe there will be any drugs stored at this property, but if there is, it will be under lock and key.

On a motion by T. Matteson and seconded by D. St. Clair, the Board unanimously approved Case #947 as presented.

CASE #948: An application has been received from Eric Crouse, Crouse Concrete LLC, 506 W. Lincoln Avenue, Lititz, PA 17543. The applicant is seeking a Special Exception to the Warwick Township Zoning Ordinance under Section 340-112.A to expand a nonconforming use within the Agricultural Zoning District. The applicant has also requested the following Variances: Section 340-112.A(2) to exceed a 50% expansion and 340-11.1(4) to exceed 20% lot coverage. The application has been assigned Case #948 and is scheduled for a public hearing this evening. T. Matteson recused himself from this case.

Dwight Yoder from Gibbel, Kraybill & Hess introduced Robin White, who is a new associate for zoning cases. He also introduced Eric Crouse from Crouse Concrete and Kevin Varner from Diehm & Sons. Mr. Yoder stated that this is an existing lot that is currently in the agricultural district. It was a lot that was actually developed and approved when it was zoned commercial. The property was then purchased by Crouse Concrete after it was rezoned agricultural and they got an approval to substitute a nonconforming use. It is approximately 4 acres with an improved building on it that has been there for a while and has been used for commercial purposes. Essentially the applicant is out of space and they want to construct a pole barn for storage of their equipment and materials. It is a typical kind of contractor business where employees come in the morning, pick up the equipment and leave with company vehicles, go out to the job site and do their concrete work and then come back at the end of the day. This is an ideal site to be able to use for their business because it was originally zoned commercial and is subdivided and developed as a commercial lot. Yoder feels because it fell on the west side of West Lincoln Avenue that it was zoned agriculture to keep the map looking nice and clean but it became non-conforming at that point. They are asking for a special exception to expand a non-conforming use and then two variances, one is to exceed the 50% to allow 85% and the other is to exceed the maximum lot coverage of 20% to go to 27%. Because

it is in the agriculture district versus a commercial lot the lot coverage is much lower. It is not a viable agricultural lot, it is a 4 acre commercial lot that has been stuck in the agriculture district. The applicant feels it is a good use of the lot.

Eric Crouse, owner of Crouse Concrete, LLC was sworn in by the court reporter. He stated that Crouse Concrete is contractor mainly doing concrete plan work for new home construction, decorative concrete for homeowners, and commercial work. Mr. Crouse has been in business for 15 years and has 21 employees. The business is located at 506 W. Lincoln Avenue which is the subject property of the application. Mr. Crouse stated that he has been in that location for 5 years and he is experiencing growth in his business. Mr. Crouse is looking to expand his current facility at the site. Mr. Crouse confirmed that the property consists of approximately 4.45 acres located in the township agricultural district. Mr. Crouse described, based on the aerial of the existing buildings, other improvements that are on the property. Crouse stated that the total building square footage is about 6200 square feet with approximately 4100 square feet is warehouse space and connected to that is the office space which is approximately 2100 square feet. He also confirmed that there are also some improvements for parking areas. Mr. Crouse acquired the property in 2019. At the time Mr. Crouse acquired the property the buildings on the property were being used for two commercial businesses, Brookside Builders and Heilman photography. Mr. Crouse came before the Zoning Hearing Board prior to purchasing the property to request a substitution of one non-conforming use for another to be sure that you were able to use the property. Mr. Yoder asked Mr. Crouse to give an overview of what he does at the property. Mr. Crouse stated that right now they store equipment and things needed for concrete in the warehouse and the office has a secretary and two estimators and himself that works there. On a normal day the employees come in with work trucks, they load their supplies and crew up for the day and leave at approximately 6 a.m. with a return back to the shop between 4 p.m. and 5 p.m. Mr. Crouse stated that there is no manufacturing or production on the property. Rebar, wire, concrete reinforcement, forms, trowel machines, stamp forms, random tools needed for jobs are stored at the property. Normal business hours are 6 a.m. to 4 p.m. or 5 p.m. Monday through Friday. There is not much going on at the property after the employees pick up their supplies and head out to the job sites. Mr. Crouse would like to put up a 100 X 60 ft. pole barn behind the existing warehouse with parking/macadam space between the two buildings. The proposed building would help store equipment that is needed as the business grows, along with trailers, a skid loaded and ride-on trowel machines. Mr. Crouse does not anticipate much activity going on in the proposed building during the day after the employees leave for their job sites in the morning. The applicant identified the areas on the plan described how they would be used. Mr. Crouse stated that they want a stoned area for storing excess leftover materials such as hardscape wall block for seat walls or loads of stone that can be used on another project. The location for this area is to the west side of the property. Mr. Crouse has not had any complaints from neighbors or issues that have come up with the operation of the business. Mr. Crouse does not think the additional pole barn and parking and loading areas will have any impact on the adjoining property owners. Based on the size of the lot and the fact that it has been developed with commercial buildings, Mr. Crouse does not think the property can be used for agricultural purposes. Mr. Crouse stated that prior to 1993 the property was zoned commercial.

Kevin Varner, Director of Engineering for Diehm & Sons was sworn in. He confirmed he is a licensed engineer in the state of Pennsylvania. He has been practicing for 26 years. Mr. Varner prepares site plans and land development plans based on the requirements of zoning ordinances. His firm prepared the plans for this property. Mr. Varner stated that the curved road on the plans is West Lincoln Avenue with an intersection at the south east portion of the lot that would be Arrowhead Drive which extends up along the southern portion of the tract. The existing access comes off of Arrowhead Drive which is proposed to

remain. The proposed parking, unloading, and access area to get back to the new building comes along the west side of the existing building back to the proposed 6,000 square foot piece. There are existing trees that surround the existing infrastructure at this point. The building is going to be removing a portion of those tree areas and Mr. Crouse has agreed to install a new row of trees to replace the ones that need to be removed. The existing sewage system is located under the building and loading area so they did some soils testing so they were confident they can replace that one the site. Mr. Yoder asked if the plan shows the setbacks and that the proposed improvements would comply with all the setbacks to which Mr. Varner stated yes. Mr. Varner stated that there is currently 13 parking spaces south of the existing building and then there is 17 proposed spaces to the west side of the lot. They would share the drive for their back out portion. The parking was based on the existing building square footage that requires 16 spaces and they are actually proposing 30 spaces. The applicant provides work truck employee parking, transitions as they come pick things up, and also trailer storage. Mr. Yoder asked if it was Varner's understanding that in the morning employees would bring their own vehicles and there would already be company trucks and trailers parked there so to facilitate that transition there needs to be some additional parking spaces available. Mr. Varner agreed. The area in front of the proposed pole barn would be used for loading and unloading materials and equipment. Varner reviewed on the site plan the current area being used for the existing commercial business. He stated they calculated that to be 23,707 square feet. He was asked how much the proposed addition involve to which Varner stated 20,042 square feet which is set forth in the site plan under the site data. The total resulting area for the expanded business would be 43,749 square feet and that constitutes an 85% increase. Mr. Varner stated that 27.7% of the lot would be covered if the Board approves the proposed expansion. Mr. Varner stated there is adequate public facilities available to serve the proposed use and there is no reason to believe that the proposed expansion would impair the integrity of the Township's Comprehensive Plan. Yoder asked if there are any concerns with this proposal to expand the existing business. Mr. Varner did not have any concerns.

The applicant is requesting 2 variances. One is to exceed the 50% expansion and one is to exceed the 20% lot coverage. Mr. Yoder asked if there are unique physical attributes of the site that limits its use and strict compliance with the provisions of the agriculture zoning criteria. Mr. Varner noted that because the property was a commercial zoned that way initially, it is set up for commercial use. Mr. Varner stated that the lot is only 4.5 acres which does not make a viable farm. The triangular nature, the road frontage on 2 sides further sets it up as a commercial property. The size of the lot, the fact that it was previously developed and used as a commercial lot, and its unique configuration creates a hardship in being able to utilize it as an agriculture zoned lot. The requested dimensional variances that allow some additional expansion and additional lot coverage from what is allowed in the agriculture district would provide Crouse Concrete with reasonable use of the property. Mr. Yoder asked if the applicant created the unnecessary hardship related to the attributes of the property to which Mr. Varner stated no. If the variances are granted by the Board it would not alter the essential character of the neighborhood or zone in which the property is located. These requests represent the least modifications that are necessary to allow reasonable use of the property. They would not impair the use and development of the adjoining properties. There are no residential properties to the west. There are some residential properties across Lincoln Avenue with the road in between. There will be some additional trees planted to help provided some type of buffering and landscape area around the additional building. Varner stated that there is an existing church on Arrowhead Drive directly south of the proposed property. Across W. Lincoln Avenue to the south side of the property is another church. In Mr. Varner's opinion the proposed expansion will not detract from the use and enjoyment of adjoining properties and it would not be detrimental to the public welfare. Mr. Varner confirmed that he reviewed the zoning application and he agrees with what is set forth in that application.

D. Clark asked about the applicant purchasing the property which was zoned agriculture and as part of his due diligence period before his purchase he realized the expansion was limited to 50% so Clark questions whether it is truly hardship. Yoder stated that the requirement for a hardship is not related to what a potential purchaser thinks or what they want to do with the property. It is really related to the unique aspects of the property itself so you have a commercial lot that is too small for an agriculture lot, it was developed for commercial use and it had a commercial building on it. While Mr. Clark is right certainly the ordinance hasn't changed, the requirements for a variance look to the unique physical attributes of the lot itself so you have a lot that is in the agriculture district that essentially should not be in the agriculture district. They applicants feels they do meet the requirements for a hardship under the standard variance requirements. Mr. Yoder noted that for dimensional requirements that is a different standard than a use variance. D. Clark asked about the parking setbacks in an agriculture district and how the setback for the parking and outdoor storage is established. Clark asked if there is a reason that the parking is less than the required 50 feet setback. Varner stated that often times parking setback is less than 50 feet. Clark asked why the parking isn't at the 50 feet if there are no guidelines for the parking. Yoder stated that if you look at the definition for front yard, rear yard and side yard it is the distance between the principle structure and the property right-of-way. Since neither of the buildings would be principal structures, there is nothing precluding having the parking and the outside storage within that setback area. D. Clark stated that it is always dictated by more than the definitions. N. Albert stated that all parking lots inside of rear yards it is a 10 foot minimum setback from property lines. The proposal is for a 30 foot setback. D. Clark asked if the applicant considered eliminating some of the parking and getting rid of the lot coverage variance. Varner stated that the applicant feels that the spaces are needed for the operation of the business. They are basing it on the square footage of the existing building only being that the rear building is storage, so in that scenario having the additional spaces is needed. Varner stated that having not enough parking spaces is always much more detrimental impact than having a couple extra so they like to error on that side if they can. There are currently 21 employees and they are proposing 30 parking spaces. Yoder noted that Mr. Crouse will be hiring a few more employees. Mr. Crouse stated that with their operation it is basically a pickup truck and a 16 foot cargo trailer that gets dropped off in the parking space so that is where some of that would be needed to park during off hours. M. Will stated that the applicant is currently using the entire 2100 square feet as an office. Crouse stated that the original plan when he purchased the property was to use half for an office and potentially lease out the other half but the business kept growing so now they are using the entire building. Will stated that the building that is there today is 100% used by Mr. Crouse's business and there is no ability to modify that building for other uses. Will agrees that 87% is a big number. He asked if the proposed 60X100 is the absolute need at this point. Mr. Crouse stated it does give him a little bit of room to grow. He stated he does not need all of it now but he feels that in 5 years he would have wished he had it. B. Nolt mentioned that the difference between a 20% and a 27.7% is approximately 15,000 square feet. That is the deviation between what the ordinance is saying coverage is and what is here so he doesn't think reducing the building gets us 15,000 square feet. He also stated that the parking is the most egregious change. The applicant will need to do stormwater and go through the land development process. D. Clark asked the applicant if he is growing at such a rate that he will outgrow this proposal in 3-5 years or has he reached a point where he is happy with the size of the company and want to maintain that size. The applicant stated that he likes the location and that by expanding it that much they can do so much more with it. D. Yoder stated that as a locally owned family business being able to use the property you have is much more cost effective and efficient than trying to go out and buy a new property which is not the easiest thing to do right now. It made some sense for the applicant to try and use what he currently has and if you just look at the site plan it is not an agriculture lot, so from a practical standpoint it seems to

Mr. Yoder that being able to use the lot as much as you can makes the most sense. The lot is not a viable agriculture lot, it was created for a commercial use and approved as a commercial use under commercial zoning. D. Clark stated that assumes that the adjacent property owner would purchase that and do a lot consolidation and use the existing storage and warehouse building for tractor storage or an agricultural use. B. Nolt asked if there was ever a discussion with the western property owner to get additional acreage to meet 20% lot coverage requirement. D. Yoder stated that there wasn't a discussion. Part of the difficulty of going into the agriculture district and subdividing off of an existing farm lot would be all kinds of other zoning limitations with subdivision rights and then taking land and adding it to this parcel so they did not explore that just because they didn't feel like taking farm land out of production to get below the 20% lot coverage. There were no questions from the audience. The Board went in to executive session.

Upon return from executive session, M. Will asked if there were any additional questions. M. Will stated that they have trouble with the numbers on expansion and lot coverage but they do believe that the lot had been previously zoned commercial. M. Will made a motion to approve the variance of Section 340-112.A(2) to expand the area of the non-conforming use to 85% per the plan. M. Will made a motion to approve the variance for Section 340-11.I(4) to exceed the maximum lot coverage of 20% to 27.7%. The special exception of 340-112.A to expand the preexisting non-conforming business Mr. Will moved to approve that special exception. The condition one is they believe the impact could be to the residential across the street. They would like the applicant to have a landscape buffer substantially the same as the applicant has indicated and make sure that the building is well buffered from the residential across the street. D. St. Clair seconded the motions by M. Will and the Board unanimously agreed.

ADJOURNMENT: With no further business the meeting was adjourned.

Respectfully Submitted,

Tom Zorbaugh
Code & Zoning Officer