**LOWER PAXTON TOWNSHIP**
**ZONING HEARING BOARD**

Meeting of December 2, 2010

| Members in Attendance | Also in Attendance |
|---|---|
| Jeffrey Staub, Chairman | Dianne Moran, Planning & Zoning Officer |
| Sara Jane Cate, Vice Chairperson | James Turner, Solicitor |
| David Dowling | |
| Richard Freeburn | |
| Gregory Sirb | |

**Docket #1288, Continuation**

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| Applicant: | Calvin Clements, DVM |
| Address: | 4905 Jonestown Road |
| Property: | 4903-4905 Jonestown Road |
| Interpretation: | A minimum 30' buffer yard with plant screening is required.<br>The applicant proposes to locate existing and proposed parking within the buffer area.<br><br>A 30' planting strip is required, with at least 20' outside of the street right-of-way.<br>The application encroaches into the setback. |
| Grounds: | Sections 803.D.1 and 603.H.2 of the Lower Paxton Township Zoning Ordinance pertains to this application. |
| Fees Paid: | September 23, 2010 |
| Property Posted: | October 25, 2010 |
| Advertisement: | Appeared in The Paxton Herald on October 20 & 27, 2010 |

The hearing began at 7:07.

Mr. Staub explained that it was discovered that an additional variance was needed for lot size. Mr. Turner stated it was readvertised for this meeting, and all of the testimony was taken at the previous meeting, as well action. The application has to be opened in case there is any additional testimony. If there is none, Mr. Turner advised that the Board can act to reaffirm the decision made at the previous meeting.

Mr. Staub asked for additional comment from Board members. There was none.

Mr. Staub called for comments from the audience, and heard none.

Mr. Freeburn made a motion to reaffirm the decision from last month. Mr. Dowling seconded the motion, and a roll call vote followed: Mr. Freeburn-Aye; Mr. Dowling-Aye; Ms. Cate-Aye; and Mr. Staub-aye.

The hearing ended at 7:12 pm.

**Docket #1292**

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| Applicant: | Highmark, Inc. |
| Address: | 5th Avenue Place, 120 Fifth Avenue, Pittsburgh, PA 15222 |
| Property: | 5116 Jonestown Road, Colonial Commons Shopping Center |
| Interpretation: | Maximum sign area of 32 square feet<br>Applicant proposes 60 square feet |
| Grounds: | Article 714, of the Lower Paxton Township Zoning Ordinance pertains to this application. |
| Fees Paid: | November 2, 2010 |
| Property Posted: | November 22, 2010 |
| Advertisement: | Appeared in The Patriot-News on November 18 & 25, 2010 |

The hearing began at 7:10 pm.

Mr. Staub stated it is customary for the Board to enter as exhibits the application and site plans. The applicants had no objection to its doing so.

The following were sworn in: Bill Sittig, counsel for the applicant; and Dianne Moran, Planning & Zoning Officer.

Mr. Staub asked about the way the hearing was advertised, and if there are additional variances requested. Mr. Turner stated that he advertised this hearing because the site is located in Colonial Commons, and there have been a number of variances granted over the years, and it becomes difficult to keep track of all of the signs in the center.

Mr. Sittig explained that an employee of Highmark was expected to be in attendance, but is sick, so he will try to answer as many questions as he can. Mr. Sittig noted that the sign ordinance is very thorough and very thoughtful. There is a practical hardship in this case for the property and the proposed sign. He noted that sign variances are difficult to show hardships, but he would like to explain what is there and what is proposed. He explained that the facility has been open for a few months, and the sign they have is still very new. He stated that Highmark must feel pretty strongly about their need if they just spent the money for a sign only to turn around and purchase another one. Locating the store is a very substantial problem.

The proposed sign is 60 square feet, which is nearly double the existing sign. The layout of the sign will also change, placing some prominence on the logo. Highmark is not known for retain facilities.

Mr. Sittig presented some photographs of the site from a motorist's position on Jonestown Road. Mr. Turner marked the exhibits as Applicant's Exhibits 1, 2, and 3.

Mr. Dowling asked when the first sign went up. Mr. Sittig stated the permit is dated August 3, 2010, but the store opened in September, so the sign probably went up after August 3rd. Mr. Dowling asked why an ineffective sign was installed. Mr. Sittig stated that the sign company proposed a sign that complied with the ordinance, not a sign with a goal of what can be seen. He explained that when directed to make the sign usable, the sign company proposed this 60 square foot sign.

Mr. Sittig stated that part of the hardship is the location of the store within the shopping center. He stated a customer will not enter Colonial Commons and see the store without driving past the shopping center. He compared the signage available to the signage at Blockbuster. Mr. Dowling asked about the Blockbuster sign. Ms. Moran stated that if the store area is over 5,000 square feet they may have up to 60 square feet of sign area. She also noted that their sign permit would have been granted under the previous zoning ordinance.

Mr. Freeburn asked if Highmark sells insurance at a retail place. Mr. Sittig stated they do sell insurance over the counter, directly without going through an agent.

Ms. Cate asked if the sign is backlit, and noted it was not lit when she visited the site. Mr. Sittig stated it is supposed to be illuminated, but he agreed that it was not lit when he saw it. He noted he had a difficult time finding the location, but he is from Pittsburgh. Ms. Cate noted she was driving east on Route 22, and saw it immediately.

Mr. Freeburn asked what is allowed for a shopping center such as this one or Paxton Towne Centre. Ms. Moran answered that many suites are over 10,000, and those are allowed 10% of their wall area. Suites between 5,000 and 10,000 are allowed 60 square feet, and suites under 5,000 may only have 32 square feet. This zoning ordinance went into effect in 2006.

Mr. Sittig stated that even though the store technically fronts Jonestown Road, which should be a good thing, it is more of a disadvantage since people enter the shopping center at the traffic signal and this space and Blockbuster are somewhat off by themselves.

Mr. Freeburn noted there are probably very few stores in these shopping centers under 5,000 square feet. Mr. Sittig stated the suite is also laid out differently. It is wide and shallow, not narrow and deep which might do well with the 32 square feet. The wideness lends itself to a bigger sign, and the larger sign would not be out of character or seem out of place. Mr. Staub agreed the space is unusual. Mr. Sittig stated the frontage seems to warrant the larger sign.

Mr. Dowling stated the Zoning Hearing Board is very familiar with the shopping center, and he noted that even though the store is part of the center, it really is out of the way and disconnected. He added that unless you are going to the neighboring shopping

center, there is no reason to drive by the store. Mr. Freeburn agreed, and stated he was not even sure there was anything beside Blockbuster.

Mr. Freeburn stated that having one word on either side of the logo is not easy to read, but the new proposal seems much nicer and easier to read. Mr. Sittig stated the sign company may have been limited by what the marketing department gives him to work with, but he thinks the larger logo and putting both words together create a better product.

Ms. Cate asked why the site was selected if it was in such a poor location. Mr. Sittig stated that the Highmark representative would have been able to better answer that question, but he noted that it is a great area, both physically and demographically, and the challenges actually surprised them. They are trying to do what they can to make the location viable.

Mr. Staub asked if there is space on the marquee for Highmark. Mr. Sittig didn't know if there was, but stated that he did not negotiate that with the owner, so even if there is room, Highmark has not rights to it.

There was no comment from the audience. The Township had no position on the application.

Mr. Freeburn made a motion to grant the application based on the difficulty of the site, and the unusual shape of the frontage of the property that makes 32 square feet a hardship for the applicant. Mr. Dowling seconded the motion, noting that of the hundreds of signs, this one does not seem out of proportion. A roll call vote followed: Mr. Freeburn-Aye; Mr. Dowling-Aye; Ms. Cate-Aye; and Mr. Staub-Aye.

The hearing ended at 7:38 pm.

**Docket #1293**

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| Applicant: | John & Patricia Shaver |
| Address: | 5008 Colorado Avenue |
| Property: | 5008 Colorado Avenue |
| Interpretation: | Minimum side yard setback of 5' and a total of the two side yards of 15', in the R-2, Medium Density Residential District.<br>Applicant proposes a side yard setback of 2'. |
| Grounds: | Article 307.A, of the Lower Paxton Township Zoning Ordinance pertains to this application. |
| Fees Paid: | November 2, 2010 |
| Property Posted: | November 22, 2010 |
| Advertisement: | Appeared in The Patriot-News on November 18 & 25, 2010 |

The hearing began at 7:40 pm.

Mr. Staub stated it is customary for the Board to enter as exhibits the application and site plans. The applicants had no objection to its doing so.

The following were sworn in: Patricia Shaver & John Shaver, applicants; and Dianne Moran, Planning & Zoning Officer.

Mr. Staub asked the applicant to give their testimony. Mr. Shaver stated he didn't really have any, besides what he submitted with his application.

Mr. Freeburn stated it is his understanding the applicants want to build a garage on the side of the house. Mr. Shaver answered yes, to the east side. Mr. Freeburn stated the setback requirement is 5 feet, and the Shavers would like to encroach by an additional 3 feet, or more if the Board would be willing to grant it. Mr. Shaver stated that is correct. Mr. Freeburn stated the reason as he understands it is that there is a driveway there now, and 4-foot-wide steps. Mr. Freeburn stated that the garage could go 12 feet from the steps without encroaching into the setback. Ms. Shaver stated it would only be 10 feet from the edge of the porch to the edge of where they are allowed to go.

Ms. Cate asked if they considered removing the steps and putting in regular steps. Ms. Shaver stated she is not interested in making the steps smaller because she recently fell from the steps flat backwards and hit her head badly. Mr. Dowling stated that if the steps were redesigned they could be done in less than 4 feet. Mr. Freeburn thought the smallest the steps could be is three feet. Mr. Staub stated if they were turned sideways, there could still be a landing at the top.

Mr. Dowling asked what the standard width of a one-car garage is. Ms. Cate answered 12 feet, same as hers.

Ms. Shaver stated that any space left over is only going to be wasted or unused space.

Mr. Staub explained that if the steps are reconfigured, you could get the steps and the garage in with only a 1-foot encroachment. Mr. Freeburn stated he is not sure how the reconfiguration would really go, so he would be willing to give one more foot, making a 3 foot setback.

Ms. Cate asked if the door opens into the house or out. Ms. Shaver stated the heavy door opens in and the storm door opens out. Ms. Cate stated the outside door will not be needed once there is a garage. Ms. Shaver stated it is a brand new storm door, and it really makes a big difference keeping the air out. Ms. Cate stated that between the garage and the house, you only need the one door.

Ms. Shaver stated they were thinking of making the porch bigger because of the incident when she fell. She noted that if you have bags or things in your hands, it is very difficult to get in the door.

Mr. Dowling explained that once there is a garage, there will be no need for the storm door, the garage will give the protection that the door offers now. Ms. Shaver stated the door is new, and they do not intend to remove it.

Mr. Staub asked about the appearance of the proposed garage. Ms. Shaver stated it would be brick to match the front, and probably siding around the side and back, similar to what the offices do in the area. Mr. Staub asked about the roof. Mr. Shaver stated they have not gotten that far yet. Mr. Freeburn suggested it would be pitched to match the existing roof. Mr. & Mrs. Shaver agreed. Ms. Shaver stated there is a home in the neighborhood that has a roof like what she would like, and it looks very nice.

Mr. Staub asked about the neighbors. Ms. Shaver stated that the neighbor to the east is Ms. Penna and she is very old so her son will probably inherit the house. She explained that she has spoken to both of them, Ms. Penna signed a release, and the son witnessed it to be sure they are both aware of what is proposed.

Mr. Freeburn asked if there is a fence between the properties. Ms. Shaver stated there is chain link fence. Mr. Freeburn stated if the garage is built with the 3-foot encroachment, there would be 2 feet between the garage and the fence. Ms. Shaver stated she intends to put concrete there so they do not have to mow or weed that area.

Mr. Turner asked about the pictures of the other garages. Ms. Shaver stated that she took several photos of houses in he neighborhood that have similar garages, some with more setback, some with less, and some have patios that are not even a foot away.

There was no comment from the audience.

The Township had no position on the application.

Mr. Freeburn made a motion to grant a variance of two feet, as opposed to three feet as requested. This gives twelve feet from the edge of the porch for the garage, as shown on the diagram provided by the applicant. Ms. Cate stated that is the typical width of a garage. Mr. Freeburn stated it does not require the reconfiguration of the steps. Ms. Cate seconded the motion.

Mr. Staub called for discussion on the motion. Mr. Dowling stated the two-foot encroachment makes a three-foot setback, or three feet from the property line to the edge of the garage. A roll call vote followed: Mr. Freeburn-Aye; Mr. Dowling-Aye; Ms. Cate-Aye; and Mr. Staub-Aye.

The hearing ended at 8:00 pm.

Respectfully Submitted,

Michelle Hiner
Recording Secretary