

**LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD**

Meeting of December 4, 2008

Members in Attendance

Jeffrey Staub, Chairman
Sara Jane Cate, Vice Chairperson
Richard Freeburn
David Dowling

Also in Attendance

James Turner, Solicitor
Lori Wissler, Planning & Zoning Officer

Docket # 1253

Applicant: Otis A. Thomas, III & Paula J. Thomas

Address: 1620 Buckingham Road; 5708 Oak Avenue

Property: Parcel #35-045-129, Beaver Road and Johnson Street

Interpretation: Landscaping Business is not a permitted use in the R-2, Medium Density Residential District.
The applicants propose to construct a building to house landscaping equipment.
Setback requirements are: Front-25 feet, Rear-25 feet, and Side-15 feet.
The applicants propose the following: Front (Beaver Rd)-13 feet, Side(Johnson St)-20 feet, and Rear (Alley)-Zero feet.

Grounds: Article 3, Section 307; Section 306.B.1, of the Lower Paxton Township Codified Ordinances pertain to this application.

Fees Paid: November 12, 2008

Property Posted: November 24, 2008

Advertisement: Appeared in The Paxton Herald on November 19 & 26, 2008

The hearing began at 7:01 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: Otis A. Thomas, III and Paula J. Thomas, 5708 Oak Avenue; and Lori Wissler, Planning & Zoning Officer.

Mr. Thomas stated he plans to construct a building to house his equipment, and only the equipment. It will not be an in/out place of business, nor a showroom. He would like to put a building up to house the equipment so that it is not parked on the lot in the open. It would have three front doors, facing Beaver Road, and would be constructed to look similar to an average house with a shingle roof. The zero setback would be to the paper alley, to the rear of the building. That line is between this property and the new house that was just sold last year. The building is to house equipment so that as the business expands, the vehicles are not parked at his or his mother's house.

Mr. Thomas explained that the size of the building is the reason for the setback variance request. The alley exists only on paper and appears to never have been used. It does run to the adjacent property which has a fence in the back yard. About 75 feet away, there is a stone road that goes from Johnson Street to the next block. If someone did need to use that alley, there would still be 15-20 feet to use to get down that alley.

Mr. Staub stated he is not comfortable talking about dimensional variances in a general sense. He was concerned that a boundary survey hasn't been done on such a property. The plan submitted is the only thing the Board is relying on for the dimensions. The deed provided does not match the drawing provided. Mr. Staub stated he has a problem with not knowing the actual size of the property.

Mr. Staub questioned the parking requirements for this use. The plan does not show off-street parking on the property. Even if the variances were granted today, the applicant may have to come back for a variance from the parking requirements.

Ms. Cate questioned the size of the building. Mr. Thomas indicated where on the plan the dimensions are.

Mr. Turner asked if the 13-foot front yard is closest to Beaver Road. Mr. Thomas answered that it is. Mr. Turner stated the drawing submitted does not appear to be correct. Mr. Thomas presented a more current copy of the layout. At the time of the application, he did not have to-scale drawings, but now submitted Applicants Exhibit #1, titled "Thomas storage shed, Lower Paxton, drawn by David Fetters". Mr. Turner asked the distance from the other corner to the property line. Mr. Thomas did not have that dimension.

Mr. Turner asked the impervious coverage regulation in the R-2. Ms. Wissler stated that 60% of the property may be impervious.

Mr. Turner asked if any other portion of the lot will be paved, besides the driveway and building as indicated. Mr. Thomas answered no.

Ms. Paula Thomas stated she was on-site with the contractor who measured the 30-45, and using the alley as the back of the building, there is 20 feet to Johnson Street with no problem.

Ms. Thomas asked where the setback is to be measured from and if it starts at the center of the street or the side of the street. Mr. Turner stated it starts at the edge of the right-of-way. The right-of-way is not usually the edge of the pavement or the curb. It is usually further into the yard. That is why a property typically needs to be surveyed, to show the actual right-of-way line. Measuring from the street edge can be deceptive. Any portion of the property that faces a street is considered a front yard even if it is used as a side yard.

Mr. Dowling asked the current location of the business. Mr. Thomas stated he does the paperwork out of his mother's house, and a trailer is housed at a friend's house. This proposed building is about three blocks from his mother's house, and about three blocks in the other direction to the friend's house.

Mr. Dowling asked if other commercial properties have been considered. Mr. Thomas stated that he did try, but those are out of his price range, and he doesn't need the property as a showroom, only for storage. Mr. Dowling stated the problem is a business use in a residential area. Mr. Thomas stated that even though the area is residential, it is just a lot kind of outside of a development.

Mr. Dowling asked how long the applicant has been in business. Mr. Thomas stated almost four years, serving both east and west shore.

Mr. Dowling asked about equipment. Mr. Thomas stated he has a trailer and some mowers and small tools. Nothing will be outside.

Ms. Cate asked if the applicants spoke to the neighbors. Mr. Thomas stated they surveyed two of them, and they did sign something, but Ms. Thomas did not bring that paper. Mr. Thomas stated the signatures were from the house across the alley, and the house across Beaver Road. Ms. Cate asked about the people in the new house. Mr. Thomas stated that is the house across the alley.

Mr. Staub asked the status of the Thomas' interest in the property. Mr. Thomas stated he has a sales agreement, contingent upon the result of the variance hearing. Mr. Turner stated that he has an equitable interest.

Mr. Staub asked if the old Paxtonia Plan recognizes this lot as a buildable lot, or if it was set aside for something else, because it doesn't seem to serve a purpose. Ms. Wissler speculated that it was a result of the evolution of the intersection over time. She also noted that the tax map shows some of the adjacent property lines to go out into the alley more than this lot does, and maybe they acquired some of the right-of-way over the years.

Mr. Staub called for comments from the audience.

Mr. Travis Wheeler, 240 South Johnson Street, was sworn in. Mr. Wheeler stated that he is opposed to the application. He is concerned with it being in a residential neighborhood, even though there is another shed right there. That is a busy intersection, and without the line of sight, there may be more accidents. Mr. Turner asked where Mr. Wheeler's house is in relation to the subject property. Mr. Wheeler stated he is behind it, the new house. He indicated where his property is on the tax map, lot 121.

Mr. Harold R. Loew IV, 1120 Wenrich Street, was sworn in. Mr. Loew stated he owns the shed next to the subject parcel, 122 Johnson Street. He was not sure if he was opposed to the application or for it. His concern is that he already uses his shed as a storage unit for his business, including trailers and things of that nature. His is a basic block structure. Having another shed with equipment isn't going to hurt anything, but with regard to the zoning and variances, it isn't fair to everyone else that he doesn't have to comply with the setbacks and things of that nature.

Mr. Dowling asked about the other pie-shaped lot shown on the tax map. It is located at the entrance to Meadowbrook Development, believed to be used as part of a yard where the house sits on two or more lots.

Mr. Freeburn moved to deny the application. 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 variance was denied.

**Special Exception
#08-05**

Applicant: Linglestown Life United Methodist Church

Address: 1430 North Mountain Road, Harrisburg PA

Property: 1430 North Mountain Road

Interpretation: A place of worship is a Special Exception in the R-1, Low Density Residential District.
The applicant proposes an expansion of the existing facilities to include additional classrooms, hospitality areas, a modified entrance with a covered access, and a family life center.

Grounds: Article 306.B.1.C of the Lower Paxton Township Codified Ordinances pertains to this application.

Fees Paid: November 13, 2008

Property Posted: November 25, 2008

Advertisement: Appeared in The Paxton Herald on November 19 & 26, 2008

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

The following were sworn in: Anne Anderson, CEDG, 5000 Ritter Road, Suite 203, Mechanicsburg, PA 17055.

Ms. Anderson stated that Linglestown Life is located on approximately 16 acres located at 1430 North Mountain Road, in the R-1, Low Density Residential District, just north of the Linglestown Square, on both the east and west of the dead-end of North Mountain Road. The property contains the church building, which was expanded to add meeting rooms, classrooms and offices. A parking lot is located to the north of the church building. A residence is located on the southeast corner of the site and a pavilion and play area are located northeast of the church. A cell tower is located in the southwestern section of the property. There is an overflow parking lot near the cell tower to accommodate parking related to the Linglestown Village Improvements Project. The one encroachment of a neighbor has been addressed.

Linglestown Life is considering an expansion of the existing facilities to accommodate the needs of the growing community. The anticipated expansion will include additional classrooms for Nursery School and Children's Sunday School, hospitality areas, a modified entrance with a covered access to provide shelter and improve security, and a Family Life Center for Worship Services, larger events such as congregational meals, Boy Scout activities and recreational activities. The Family Life Center will have the ability to be converted from a Worship Center to a large meeting room and recreational facility for basketball and volleyball. The plans presented are conceptual. The existing facility is 24,000 square feet on three levels. The expansion will add 22,000 square feet and 4,000 square feet, resulting to about 50,000, about double what exists.

The applicant must meet the requirements of the Special Exception section of the ordinance, as well as the additional requirements in Article 402.A.38.

Ms. Anderson stated the following to show that the church meets the requirements. Lot Area-Minimum of 1 acre, they have 16 acres. Minimum street frontage is 150 feet, the church has 498 feet along Blackberry Alley. Minimum front yard setback is 25 feet, and the church has 50 feet along Blackberry Alley. The side yard and rear yard are 25 feet and 30 feet respectively, and the closest is 35 feet. The minimum building setback is 60 feet from lot line of an existing dwelling, the church has at least 120 feet. The building coverage maximum is 30% and the church has less than 5%. The maximum allowed impervious coverage is 40% and the church has about 25% and with the parking has around 30%. The maximum building height is 40 feet, excluding steeples, and the church meets that requirement. With regard to buffering, the church feels it meets that requirement now, and will augment the existing landscaping if needed.

Mr. Dowling recognized that the testimony given in the letter submitted with the application sufficiently explains the position of the church.

Mr. Staub asked if Blackberry Alley is a Township road, and if there is an issue with not fronting a public street. Ms. Wissler stated it is not a Township-owned road.

Mr. Staub questioned if the existing church is encroaching into the front yard setback. Ms. Anderson stated that she met with the Township regarding exiting non-conformities, at which time it was made clear that it was not an issue. Mr. Staub cited another case where non-conformities became an issue and relief was needed for those dimensional issues. Ms. Wissler stated that the case of Wendy's and Home Depot was the creation of two new lots so the nonconformities needed to be rectified.

Mr. Staub asked about the parsonage. Ms. Anderson stated that is occupied by the pastor.

There was no comment from the audience regarding this application.

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Mr. Dowling made a motion to grant the special exception, and Ms. Cate seconded the motion and a roll call vote followed: Mr. Freeburn-Aye; Mr. Dowling-Aye; Ms. Cate-Aye; and Mr. Staub-Aye.

Special Exception 08-05 was granted. The hearing ended at 8:10 pm.

Respectfully Submitted,

Michelle Hiner
Recording Secretary