LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD

Meeting of August 28, 2008

Members in Attendance	Also in Attendance
Jeffrey Staub, Chairman	James Turner, Solicitor
Sara Jane Cate, Vice Chairperson	Lori Wissler, Planning & Zoning Officer
David Dowling	

Docket # 1247 Continuation Hearing

Applicant:	Sears Express/Valvoline
Address:	3499 Blazer Parkway, Lexington, KY 40609
Property:	4600 Jonestown Road
Interpretation:	Maximum number of wall signs for a single tenant in a planned center is 2. Applicant proposes 3. Maximum area of a wall sign is 32 square feet. Applicant proposes 45 square feet.
Grounds:	Section 714.A, of the Lower Paxton Township Codified Ordinances pertains to this application.

Lori Wissler, Planning & Zoning Officer was sworn in. Sam Chambers, Riptide Property Maintenance Company, 1180 South Cameron Street, Harrisburg, PA, remains under oath from the previous hearing.

Mr. Chambers stated he was contracted by Fairmont Signs to install the sign at Sears. Part of the package is the removal of the awning that says Jiffy Lube. Something new was supposed to go up next to the awning. The 3x15 sign is supposed to go over two of the bay doors. That sign is pan faced, and back lit. He was also contracted to remove the old Jiffy Lube sign on the pillar.

Mr. Staub asked about the many temporary signs on the site, various vinyl banners, window signs, tires wrapped in signs, and sandwich signs. Ms. Wissler noted that the only legal temporary sign on the property is the sandwich sign. Mr. Dowling asked why a variance is even being considered if they are in violation of the ordinance now.

Mr. Chambers apologized, but emphasized that he does not represent Sears, nor can he make decisions on their behalf. He did advise them to send someone to the hearing, however, no one was present on their behalf.

Mr. Staub stated it is a lost cause if there is no one that can make decisions about the existing signage. Mr. Staub asked if the hearing should be continued. Mr. Turner stated there is no obligation to continue the hearing.

There was no comment from the audience.

Mr. Dowling made a motion to deny the request as submitted. Ms. Cate seconded the motion and a role call vote followed: Mr. Dowling-Aye; Ms. Cate-Aye; and Mr. Staub-Aye.

The variance request was denied.

The hearing ended at 7:09 pm.

Docket # 1249

Applicant:	Kelly M. Myers
Address:	6297 Harvestfield Lane, Harrisburg, PA 17111
Property:	6297 Harvestfield Lane
Interpretation:	A family daycare home, as an accessory to a dwelling, is not permitted in the R-1, Low Density Residential District Applicant proposes to relocate an existing in-home daycare to 6297 Harvestfield Lane.
Grounds:	Article 306.B.1, of the Lower Paxton Township Codified Ordinances pertains to this application.

Mr. Staub explained that it is customary for the Board to enter the application and site plan as exhibits. The applicant had no objection to their doing so.

Ms. Wissler testified that fees were paid. Advertisements were made in the Paxton Herald on August 13 and 20, 2008. Hearing notices were posted on August 19, 2008.

The following were sworn in: Kelly M. Myers, 6297 Harvestfield Lane, and Lori Wissler, Planning & Zoning Officer.

Ms. Wissler stated that Article 306.B.1 pertains to this variance request.

Ms. Myers stated that she has operated a family daycare since November 23, 2003. Her license is up to date, and she operates a safe, hazard-free environment for children. The hours of the daycare are from 6:00 am to 6:00 pm, with a maximum of six children. Currently she has three children that she cares for in her home. She had previously operated her daycare at 6122 Chatham Glen Way, and the owner of that home didn't mind.

Mr. Dowling asked if the applicant is leasing the home. Ms. Myers stated that she is. She inquired at the Township as to if the daycare was permitted, and she was told she needed to attend a hearing because it is only allowed in certain zones.

Mr. Staub asked if there is another avenue to gain permission for her daycare, such as the special exception process. Ms. Wissler stated home occupations can be

permitted different ways. She noted that a major home occupation is a special exception in the R-1, Low Density Residential District.

Mr. Staub asked if Ms. Myers had employees. She stated that it is only herself, and her family. Under State regulations, she is permitted six children per staff person, so she herself is permitted up to six children.

Mr. Dowling asked where in the home the daycare would be. Ms. Myers stated it would be in the lower level of the home. There are two exits, as required by the State, and there will be fencing around an area outside the basement door, about 600 square feet.

Ms. Cate asked about parking for parents. Ms. Myers stated that she has four parking spaces in her driveway. Parents are instructed to pull into the driveway or along the street just past the driveway. They must turn off their engines at drop off and pick up. They have two minutes to basically drop their child off and leave for work.

Mr. Staub asked about a sign. Ms. Wissler stated a 2-square-foot sign is permitted. Ms. Myers stated she will not have a sign.

Ms. Myers stated that a daycare can only operate without a license for up to three children. Ms. Wissler stated those are State regulations, and the Township regulations basically coincide, as 3 children are permitted in the R-1 zone. A daycare as an accessory use is allowed with three children. A daycare facility is not permitted, but it is as a major home occupation, if it can meet the requirements of the major home occupation section of the ordinance. (Page 3-8, as amended.)

Mr. Staub stated that the standard for a use variance is much more difficult than a special exception.

Ms. Cate asked about the safety of the children as the home is located near several busy streets. Ms. Myers stated she knows her children very well and they are never out of her sight. She noted that her husband does help her as needed.

Mr. Staub asked about the hardship. Ms. Myers stated this is what she has done for years and she has a great love of children. She has made a good living while still offering reasonable rates to her clients. She noted she is able to help families in need of quality daycare in difficult times. Her income provides for her family. She expressed a great love for caring for children.

Mr. Dowling asked why she moved from Chatham Glen. Ms. Myers stated the owner of the house she leased sold it to someone else.

Mr. Staub called for comments from the audience.

Karen Moser, 6295 Harvestfield Lane, was sworn in. Ms. Moser stated she lives adjacent to Ms. Myers. She presented a petition signed by the homeowners in the neighborhood opposing the daycare. Ms. Moser pointed out that Ms. Myers will be leasing the property from Bruce Boudreau, who is an out-of-state owner. Ms. Moser noted that this community has a homeowners association with covenants and restrictions. Ms. Moser was under the assumption that Joy Daniels, the real estate, agent did not disclose those documents to Ms. Myers. Ms. Moser stated that in front of the house there is a median preventing cars from getting around a vehicle parked on the street. She noted that this community is low density, and of a certain value and status, which she wishes to continue to maintain. In the homeowners association documents, it mentions the prohibition of commercial activities and home occupations unless approved by the Township. Ms. Moser stated that this is a closed neighborhood so there is no through traffic. Customers of Ms. Myers will use the street or driveways or the cul-de-sacs to turn around to get out. Ms. Moser was concerned about the decrease in property value. She noted when she was looking for a house, she didn't buy one next to a daycare because her insurance carrier advised against it because of liability and increased premiums. In the covenant, it says fences are to begin at the back of the house and go back, the fence Ms. Myers proposes goes forward. Ms. Moser was concerned about setting a precedent if this variance is granted. She noted the additional children on the street is a safety liability. One neighbor expressed a concern to Ms. Moser that she will have to change parenting styles as her children will not be able to safely play outside or in the cul-de-sac streets. Ms. Moser stated there is a concern that a daycare could bring sex offenders into the neighborhood. Ms. Moser stated that she met with everyone in the neighborhood, all of whom signed the petition, except for one, who refused, and one that was on vacation. Many of the neighbors are present at this hearing. There are 21 lots in the development and 17 are built.

Mr. Jeffrey Benson, 6291 Farmers Lane, was sworn in. Mr. Benson stated that the homes were built by Alteri Homes, and there are many problems. There are liens, and the streets are not dedicated and there are several unfinished lots. Because the streets are not dedicated, there are no signs and the streets do not appear on maps so people cannot find it. Mr. Benson was concerned that Lyters Lane is a busy highway and feared that a child might get out there.

Ms. Michelle Narinsingh, 6287 Harvestfield Lane, was sworn in. Ms. Narinsingh stated she has lived there for two years. The roads are not dedicated so they are not plowed. She was concerned about conflicts with the trash truck and depreciation of the home values.

Mr. Brian McWhorter, 6288 Harvestfield Lane was sworn in. Mr. McWhorter echoed the concerns before him, and was concerned about the increase in traffic. He has three small children that play in the cul-de-sac and the extra traffic will use the cul-de-sac, affecting how he and his family live. He was concerned about the safety of his children.

Ms. Lida Yniguez, agreed with her neighbors' comments, and was concerned that a business in her neighborhood will bring strangers in who may see the nice homes and could potentially case the neighborhood for a target.

Ms. Myers stated that the property will not be commercial, and it is not a business. She is licensed with the State. Her parents will park in the driveway to drop off their children between 6-7am and leave for work. They will not drive around, they are not criminals looking for targets. Most of her parents live in equally nice homes.

Ms. Cate asked when Ms. Myers moved in. Ms. Myers stated she moved in on August 23rd.

Ms. Staub asked if the agent disclosed the homeowners documents. Ms. Myers stated that neither the agent nor the owner made her aware. The owner did however agree to lease the home to her with the daycare.

Ms. Cate regretfully made a motion to deny the application. Mr. Dowling seconded the motion and a roll call vote followed: Mr. Dowling-Aye; Ms. Cate-Aye; and Mr. Staub-Aye.

The hearing ended at 8:26 pm.

Docket # 1250

Applicant:	Giant Food Stores, LLC
Address:	PO Box 249, 1149 Harrisburg Pike, Carlisle, PA 17013
Property:	4211 Union Deposit Road
Interpretation:	For a planned center, one freestanding sign is permitted per frontage.
Grounds:	Section 714.A, of the Lower Paxton Township Codified Ordinances pertains to this application.

The following were sworn in: Steve Weingarten, McNees Wallace & Nurick; Kerry Eck, Real Estate Representative for Giant Foods; Thomas Richey, Cedar Shopping Centers; Dan Poplaski, Keystone Petroleum; and Lori Wissler, Planning & Zoning Officer.

Mr. Staub explained that it is customary for the Board to enter the application and site plan as exhibits. The applicant had no objection to their doing so.

Ms. Wissler testified that fees were paid July 30, 2008. Advertisements were made in The Paxton Herald on August 13 and 20, 2008. Hearing notices were posted on August 19, 2008.

Ms. Wissler stated that Article 714.A, with regard to freestanding signs pertains to this application. The applicant proposes to install a monument sign in excess of what is permitted. For a planned center, one sign is permitted per frontage. There are currently five freestanding signs.

Mr. Staub asked about Denny's freestanding sign, and if the applicant has a right to that sign. Ms. Wissler stated it was her understanding that if the sign is removed, they lose the right to it. Mr. Turner stated they would have the right to continue the use of the sign or put a new face on the sign, but if the sign is removed, the right is lost.

Mr. Weingarten agreed that there was a nonconforming sign there, and it was unintentionally removed. He stated that if it remains for six months without being put back, there is a presumption that there is no desire to maintain the nonconforming use. They never actually intended to remove the sign.

Mr. Weingarten stated that the ordinance allows one freestanding sign per street frontage. They have two frontages, and five freestanding signs for the shopping center.

Giant is planning to put a fueling facility where Denny's had been. It is along Union Deposit Road at the intersection of East Park Drive.

Mr. Dowling asked the applicant to describe the fueling facility and if it is similar to an existing one. Mr. Weingarten stated there will be six double-sided fuel dispensers. It will be covered by a canopy and there will be a small kiosk that sells incidentals like wiper fluid, gum, and candy cigarettes. Mr. Weingarten presented Exhibit #2 that shows those features. The dimensions of the canopy is 45x94. The attendant kiosk is 8x17. The conditional use permit was granted in the spring of 2008. The land development plan is underway, and will need to be approved prior to the facility going in.

Exhibit #3 shows a depiction of the sign proposed.

Mr. Staub stated the ordinance recognizes the Interstate as a street frontage, so there are four frontages counting I-83 and East Park Circle. Four of the five signs are nonconforming. They are not illegal as they were in compliance when they were erected, but they are nonconforming. Mr. Weingarten noted that the shopping center has been decreasing its signage square footage over the last several years, bringing it closer to conformance with today's ordinances.

Mr. Poplaski stated this sign is small, about nine feet across and ten feet high. The digits would be about 14 inches high. The monument will be low to the ground as opposed to typical gas station signs that are high in the air that can be seen at great distances. This one is designed for drivers headed into the shopping center already, so they can see the price of fuel. He explained that they are using digital signs for their new locations and retrofitting the old facilities with the digital signs. The Dillsburg Giant is being retrofitted with digital. The benefit to digital signs is the gas attendant can control the price sign from the kiosk using a radio frequency remote control.

Mr. Poplaski presented several photos of the sign that shows that the sign is not very bright, and does not pose a distraction to drivers, as the light shining on the other signs can be.

Mr. Weingarten stated that the proposal is for a 10 foot high, 39 square foot sign, but as shown in the pictures, there are other signs available to Giant, that can be smaller. The largest one is like the one in West Hanover, and the smallest one is 5x5. Mr. Weingarten stated that the variance is for the number of signs, and if the variance is granted, the applicant will comply with the area requirements. The construction materials for the sign are also a negotiable item.

Ms. Cate asked the hours of the facility. Mr. Kerry Eck, Real Estate Representative for Giant Foods, stated that the hours will be 6:00 am to 11:00 pm, it will not be 24 hours. Ms. Cate asked if the sign will be turned totally off at 11:00 pm. Mr. Eck answered yes, that if the facility is not open the sign is not on.

Ms. Cate asked if the signs at Kline Village or Route 39 are similar to this proposed sign. Mr. Eck stated the one at Kline Village is different, and the one on Route 39 is in the base of the main plaza sign.

Mr. Weingarten stated there are contractual obligations that prevent the removal of any of the other shopping center signs.

Tom Richey, Cedar Shopping Centers (the owners of the Point Shopping Center and the Camp Hill Mall and other shopping centers in the greater Harrisburg area), stated that they like to recycle existing centers as it is the responsible thing to do. When they do that, they typically encounter older signage that doesn't comply with existing ordnances. They work with the municipalities to bring those nonconforming issues as close to conformity as possible. He noted they have worked on The Point and brought it from almost 3,600 square feet of building signage, and have brought that down to about 2,900 square feet.

Mr. Richey stated the Denny's sign was not supposed to be torn down. He understands the nonconformities and the rights to them, and fully intended to approach the township with replacing that sign with a much more appealing and less intrusive monument sign. The contractor hired for demolition had specific instructions to not take the sign down, but it did get removed. Mr. Richey presented a copy of the contract that says the building structure itself is to be removed.

Mr. Dowling asked if Mr. Richey understood the significance of the sign. Mr. Richey answered absolutely. He further noted that when a contract with a tenant no longer exists, and they have the opportunity to change and modernize the sign, they do so.

Mr. Weingarten stated the hardship in this case is the unintentional or accidental removal of the Denny's sign. The character of the neighborhood will be very consistent. There are many larger signs in the immediate area, and they feel this will improve that. The public welfare is enhanced by the LED signs as they do not cause glare. In terms of minimal variance, this proposed sign is smaller than the typical Giant freestanding sign, and he noted that the applicant is willing to negotiate the size of the sign as well.

Mr. Weingarten stated there is an alternative sign available if the Board is interested, called a spandrel sign. The canopy is allowed to have three signs on it. This one will have three "Giant" signs as depicted in Exhibit #7.

Mr. Poplaski explained that the spandrel sign is one that attaches to the canopy columns under the canopy, and is made from the same materials as the monument sign would be. Mr. Weingarten noted that the spandrel sign would also require a variance, for the square footage for the canopy sign. Mr. Poplaski stated the spandrel sign would be smaller than the monument sign, with digits about 10 inches high. Mr. Dowling asked if

the sign can be read from Union Deposit Road. Mr. Poplaski answered that it will be too far from the road.

Ms. Cate asked if the canopy sign would not be included if the other price sign were not there. Mr. Weingarten stated the canopy signs are permitted and they do intend to install those.

Ms. Cate noted the applicant offered to reduce the size of the sign, and asked what they propose. Mr. Weingarten stated the one shown is 10 feet tall, and they could do a 7 foot sign. Ms. Cate asked if the seven feet includes the brick work. Mr. Weingarten answered yes.

Ms. Cate noted that the applicant has made a case for having lost the sign they would have been entitled to, and the monument sign is much better than the spandrel sign. Because of these reasons, Ms. Cate made a motion to grant the variance, with the reduction to a 7 foot tall sign. Mr. Dowling seconded the motion and a roll call vote followed: Mr. Dowling-Aye; Ms. Cate-Aye; and Mr. Staub-Aye.

The hearing ended at 7:45 pm.

Docket # 1251

Applicant:	JoAnn Fabric & Crafts Stores Continental Signs
Address:	5555 Darrow Road, Hudson OH, 44236
Property:	5070-5116 Jonestown Road
Interpretation:	The maximum area for a multi-tenant building for a wall sign is 10% of the vertical building wall face to which the sign is attached; the number of wall signs permitted is one per tenant. The applicant proposes five signs, totaling 223.68 square feet.
Grounds:	Article 7, of the Lower Paxton Township Codified Ordinances pertains to this application.

Mr. Staub explained that it is customary for the Board to enter the application and site plan as exhibits. The applicant had no objection to their doing so.

Ms. Wissler testified that fees were paid July 11, 2008. Advertisements were made in The Paxton Herald on August 13 and 20, 2008. Hearing notices were posted on August 19, 2008.

Ms. Wissler stated that the maximum area for a multi-tenant building for a wall sign is 10% of the vertical building wall face to which the sign is attached; the number of wall signs permitted is one per tenant. The applicant proposes five signs, totaling 223.68 square feet.

The following were sworn in: Carey McCartney, Continental Signs; Lori Wissler, Planning & Zoning Officer.

Ms. McCartney stated that she represents Continental Sign Company, who was hired by the Blair Company to install the signage for JoAnn Fabrics. They are requesting an additional 115.18 square feet. The reason for that is to show catalog signs for their stores' branding of custom framing, holiday décor, floral and home. The additional signage is necessary to advertise those services. If they do not have the additional signage they will not have sufficient visibility from the road because they sit so far back. Potential customers may be confused with, or not be aware of, what is offered at JoAnn. People think of JoAnn as a craft store when they offer additional services.

Ms. McCartney stated that the "JoAnn Fabrics" will be illuminated with low-voltage LEDs, but the other catalog signs will not be illuminated, they are intended for daytime customers already in the shopping center.

Mr. Staub stated he understands the logic with needing a larger wall sign, and noted that there have been similar requests from other stores. He does not disagree with that. The issue Mr. Staub didn't agree with is the other signs. The advertisement of those items or services should be a function of other advertising efforts, like the weekly circulars, et cetera. Ms. McCartney agreed, but noted that people that are not from the area frequently shop in these shopping centers.

Ms. Cate agreed with Mr. Staub, and noted there are many ways to advertise. JoAnn Fabric has been in the area for some time and people know what they offer.

Mr. Dowling noted that the Irving Shoes at the Colonial Park Mall pleaded a similar case. Ms. Wissler stated pictures were provided of other stores in Colonial Commons that have the same signs, Giant, Guitar Center. These were done under the old zoning ordinance.

Mr. Turner asked if the JoAnn sign will be the size as submitted. Ms. McCartney answered yes. Mr. Turner asked the area of the wall to which it will be attached. Mr. Staub stated the height of the building is at least 30 feet. Mr. Turner stated the variance request for area is not necessary because it is at least 3,000 square feet. The number of signs is the only variance needed. He noted that a larger wall sign would be permitted because this store has an extraordinarily long length of store-front.

Mr. Dowling made a motion to grant the variance as submitted. Mr. Staub seconded the motion, in order to have a roll call vote. A roll call vote followed: Mr. Dowling-Aye; Ms. Cate-No; Mr. Staub-No. The motion failed.

Ms. Cate made a motion to grant the variance with regard to the area of the sign only. Mr. Turner stated that variance is not required.

Ms. Cate made a motion to deny the variance. Mr. Staub seconded the motion and a roll call vote followed: Mr. Dowling-No; Ms. Cate-Aye; Mr. Staub-Aye.

The variance was denied.

The hearing ended at 8:56 pm.

Respectfully Submitted,

Michelle Hiner
Recording Secretary