

**LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD
Reorganizational Meeting**

Meeting of January 5, 2023

Members Present

David Dowling
Greg Sirb
Jeff Staub
Mark Emery
Ron Reeder
Joe Murphy

Also in Attendance

Tucker Hull
Amanda Zerbe
Kristi Focht

CALL TO ORDER

Mr. Dowling called the reorganizational meeting of the Lower Paxton Township Zoning Hearing Board to order at 7 p.m., on January 5, 2023, in Room 171 of the Lower Paxton Township Municipal Center, 425 Prince Street, Harrisburg, Pennsylvania.

ELECTION OF OFFICERS

Mr. Dowling noted with this being the first meeting of the year the Zoning Hearing Board must reorganize. He continued there are several items on the agenda, noting to Chairman, Vice-Chairman, Recording Secretary, Court Stenographer, Township Solicitor and Board Members as Hearing Officers. Mr. Sirb made a motion to continue to keep the officers as is with the Zoning Hearing Board, including the Chairman, Vice-Chairman, Kristi Focht as the Recording Secretary, Tucker Hull as Solicitor and Summer Miller Court Reporting, as Stenographer.

Mr. Emery seconded the motion.

Mr. Dowling called for a voice vote and a unanimous vote followed. Mr. Dowling called for a voice vote of anyone who opposed. No response was heard.

Mr. Dowling noted to the approval of the meeting dates on the agenda and to keep the meeting time to begin at 7 p.m.

Mr. Sirb motioned to move the meeting at 6 p.m. and approve the Zoning Hearing Board dates.

Mr. Emery seconded the motion.

Mr. Dowling called for a voice vote and a unanimous vote followed. Mr. Dowling called for a voice vote of anyone who opposed. No response was heard.

Mr. Sirb adjourned the reorganization meeting at 7:02 p.m.

Respectfully submitted,
Kristi Focht
Recording Secretary

Lower Paxton Township
Zoning Hearing Board

January 5, 2023

Members Present:

David Dowling

Allan Hansen

Jeff Staub

Greg Sirb

Mark Emery

Joe Murphy

Ron Reeder

Also, In Attendance: Tucker Hull, Amanda Zerbe, Kristi Focht

Appeal 22-03 cont.

Applicant: Weis Market

Address: 1000 2nd Street Sunbury, PA 17801

Property Owner: Weis Market

Property: 4300 Linglestown Road

For: Continuance

The Hearing Began at 7:03 p.m.

Mr. Dowling swore in the applicants for Weis Markets noting they will give their names as they give their testimony.

Mr. Dowling questioned Ms. Zerbe that this is a continuance and the Zoning Hearing Board will listen to an appeal of her decision. Mr. Dowling noted the issue is wither or not a gas station/gas pumps are an accessory use to the Weis Market store and Ms. Zerbe found they were not.

Ms. Zerbe answered yes.

Mr. Dowling noted that the Zoning Hearing Board has heard some of the testimony during the last meeting when they granted the variance to expand the store. Mr. Dowling requested the applicants to begin their testimony.

Mr. Preston the attorney introduced the applicants, Mr. Jack O'Hara, VP of Weis and Mr. Joe Gurney with First Capital Engineering. Mr. Preston requested the application be entered as an exhibit.

Mr. Hull requested for clarity that the exhibits be marked. Mr. Preston marked the exhibits, the application A1 and the plans, exhibit A2.

Mr. Preston noted to a 1994 Supreme Court case, noting that case and the definition of accessory use is identical to the matter presented to the Board this evening.

Mr. Preston questioned Mr. Gurney as an expert witness. Mr. Gurney reviewed the existing plan that was displayed on the screen. Mr. Gurney noted to the proposed plan being a store expansion to total 64,324 square feet. Mr. Gurney explained the acre lots will be joined and will move forward to land development and all the dimensional requirements will be met. Mr. Gurney noted to the proposed Gas & Go gas station that would contain six gas pumps and a kiosk that would hold an attendant.

Mr. Dowling questioned Mr. Gurney on the distance of the gas station to the front of the Weis store.

Mr. Gurney answered approximately 350 feet.

Mr. Dowling noted the proposed accessory use is 350 feet away from the Weis store and the gas facility is open to the public who would be driving down Linglestown Road and they would not even need to be in the store to use the pumps.

Mr. O'Hara answered correct.

Mr. Dowling questioned if Weis has a gas program with Sunoco currently.

Mr. O'Hara answered correct.

Mr. Dowling noted that most of the accessory use structures are adjacent to the primary use and this accessory, the gas pumps use is not solely for the Weis shopper but is open to anyone who needs gas. Mr. Dowling commented to the convince stores that have gas pumps noting that they maybe in located in an area that is allowed but where they are proposing their pumps they are not.

Mr. Preston referred back to the Supreme Court ruling to argue that it is now allowed. Mr. Preston commented that barns can be 350 feet or more away from a house, noting he has never encountered distance between buildings a factor. Mr. Preston gave examples of convenience stores (7/11, Wawa, Turkey Hill) that customers only come to get gas and do not have to enter the store to get the gas.

Mr. Dowling questioned the Board if they had any further questions for Mr. Gurney.

Mr. Sirb noted that they don't know what the other convenience stores are zoned but he does know what this location is zoned. He noted this location is zoned CN and the applicant needs to have an agreement from this board.

Ms. Zeebe noted that the other gas stations are all permitted uses in that zoning district.

Mr. Preston commented that is why they are here. He referred to the definition of an accessory use.

Mr. Dowling noted that this was a ruling on a convenience store and this is a grocery store.

Mr. Emery questioned Mr. Gurney in the past five years how many Weis stores did obtain or did not need to obtain approval to install gas pumps.

Mr. Gurney named several expansions and new stores, noting seven or the last seven years.

Mr. Emery questioned if any of those stores required approval.

Mr. Gurney listed a few stores that needed a type of relief.

Mr. Alex Ororbia commented on a store that Mr. Gurney had not mentioned.

Mr. Preston questioned Mr. Gurney if he is the only engineer.

Mr. Gurney answered no.

Mr. Preston noted that Weis could have other projects that Mr. Gurney is not aware of.

Mr. Gurney answered correct.

Mr. Dowling questioned the number of Weis Markets in Dauphin County.

Mr. O'Hara answered that they have 197 stores in the chain, 60 of which have or will have gas. He noted that the last 11 stores that opened had gas.

Mr. Preston questioned Mr. O'Hara if the gas is a customary use.

Mr. O'Hara answered yes. He explained the gas department is treated just as any other department in the store or the pharmacy noting it is an integrated use.

Mr. Sirb noted that there is not just a pharmacy store, a customer must enter Weis to get to the pharmacy but a customer does not have to enter Weis to get gas. Mr. Sirb noted that this is to drive in store sales.

Mr. O'Hara explained adding these departments is designed to improve the overall enterprise of the store.

Mr. Downing explained that there was a time when grocery stores did not sell beer or wine or house a café'. He noted that is what he imagines as accessory use.

Mr. Dowling commented he feels the supermarket industry begin to sell a new product where it is allowable and then it becomes customary.

Mr. Preston noted that over the years stores have evolved to sell more than one product.

Mr. Dowling questioned which is subordinate to which, the gas to the convenience store or the convenience store to the gas.

Mr. Sirb questioned if the gas station could be there and thrive on its own without Weis Market.

Mr. O'Hara answered no. He explained the Gas and Go would not because Weis would not operate it.

Mr. Sirb questioned that if he came in and purchased that Gas and Go and opened a Sirb Gas Station would it thrive.

Mr. O'Hara answered no.

Mr. Sirb noted that with only six gas pumps it would not operate economically.

Mr. O'Hara answered the six pump Gas and Go would not operate without the grocery store.

Mr. Sirb questioned if the applicant felt the gas pumps are subordinate to the grocery store.

Mr. Preston commented that he felt the gas station is subordinate to the grocery store.

Mr. Dowling noted to Section 202 of an accessory structure and gives examples of things that the people who wrote this ordinance thought of as an accessory. Mr. Dowling read some of the examples. He continued that the issue is well defined and it up to the board thinks is an accessory use.

Mr. Preston noted they will not appeal the decision there is no point.

Mr. Sirb noted there a difference between a service station and a gas station.

Mr. Sirb questioned the rezoning in 2006, if it was gas stations were not allowed or service station.

Ms. Zerbe answered that there is not definition for a gas station. She explained the only place you will find gas is under the auto service station.

Mr. Dowling questioned if any member of the audience wished to be heard.

Mr. Dowling swore in Dori Hoover of 4427 Venus Ave.

Mr. Dowling questioned where she lived in relation to the Weis Market.

Ms. Hoover pointed to her property from the plan on the screen.

Mr. Dowling noted that Ms. Hoover's property adjoins the Weis property.

Ms. Hoover questioned how many gas stations has Weis placed that are close to neighborhoods like hers. She noted her concern for the buffer they are supposed to have. She noted that if you drive down Linglestown Road you can see their back yards' day or night. She noted the proposal and the trucks will impact her neighborhood due to the noise of the tractor trailers and trash from the dumpsters. She questioned their ground water and contamination from the pumps. Ms. Hoover noted the trees that were planted for the buffer, there is only one row of trees and they are half dead.

Mr. Dowling questioned if any other member of the audience wished to be heard.

No response was heard.

Mr. Dowling moved for an executive session.

Mr. Dowling questioned if a member of the Board wished to take action on the appeal.

Mr. Sirb motioned to approve the appeal based on the fact it is not customary to have a gas station at a grocery store. Mr. Sirb added a condition that the buffer needs to be addressed satisfactory to the neighbors that it most affects.

Mr. Reeder seconded the motion.

Mr. Dowling questioned if there were any further questions or comments by members of the Board.

No response was heard.

Mr. Dowling requested Mr. Hull to conduct a roll call vote: Mr. Reeder, aye; Mr. Emery, nay; Mr. Staub, no; Mr. Sirb, aye; Mr. Dowling, no.

Mr. Dowling noted the application has been denied.

This hearing ended at 8:25 p.m.

Respectfully Submitted,

Kristi Focht

Kristi Focht, Recording Secretary

Lower Paxton Township

Zoning Hearing Board

January 5, 2023

Members Present:

David Dowling

Jeff Staub

Greg Sirb

Mark Emery

Joe Murphy

Ron Reeder

Also, In Attendance: Tucker Hull, Amanda Zerbe, Kristi Focht

SE 22-01

Applicant: Susquehanna Valley Church

Address: 6344 Union Deposit Road

Property Owner: Susquehanna Valley Church

Property: 6344 Union Deposit Road

Applicant: Seeking a Special Exception as required in Section 306.B.1, permitted uses in primarily residential districts. The applicant is requesting to construct an addition church building located within an R-1, low density residential district.

Fees Paid: December 5, 2022

Property Posted:

Advertised:

The Hearing Began at 8:29 p.m.

Mr. Dowling swore in applicants Mark Kurowski of K&W and Matt Saxinger Sr. Pastor of Susquehanna Valley Church.

Mr. Dowling questioned Ms. Zerbe on what Township Ordinance is at issue.

Ms. Zerbe answered section 306.B.1, permitted uses in primarily residential districts. The applicant is requesting to construct an addition church building located within an R-1, low density residential district.

Mr. Dowling swore in Amanda Zerbe

Mr. Dowling swore in applicants Mark Kurowski of K&W and Matt Saxinger Sr. Pastor of Susquehanna Valley Church.

Mr. Dowling requested the applicant to begin their testimony.

Mr. Kurowski gave an overview of the church location, parking spaces and boarding neighbors. He noted the church holds two services with 350 members with the sanctuary holding approximately 189. Mr. Kurowski noted to the driveway from Union Deposit Road. The church expansion would include an expansion in the sanctuary and classroom office space. Mr. Kurowski noted that services are only held on Sundays. The plan proposes a new driveway, and a study has been submitted to Penn DOT. The parking is proposed to be larger due to holiday events that would take place at the church that would accommodate a larger congregation. Mr. Kurowski reviewed the compliance section 116c. The proposed plan will combine all three properties and proposed to hold two storm water facilities.

Mr. Hull requested Mr. Kurowski to review section 402, he questioned if the setbacks have been satisfied.

Mr. Kurowski answered yes.

Mr. Sirb questioned if there were any comments that came to the Township.

Ms. Zerbe answered no.

Mr. Staub questioned how many stories the building would be.

Mr. Kurowski answered that with the sanctuary it could be the height of two stories.

Mr. Emery questioned if there will be any current activities that will expand giving an example of a day care.

Mr. Saxinger answered it will only be a church.

Mr. Hull requested to mark the application as exhibit A1 and the church expansion plan and exhibit A2.

Mr. Dowling questioned if a member of the Board wished to take action.

Mr. Reeder motioned to approve the Special Exception 22-01 as submitted under the condition that all lot mergers be completed. Mr. Dowling added any buffering to the satisfaction of the property owners. Mr. Reeder agreed to that condition.

Mr. Sirb would like to make it clear that the church is only as a church.

Mr. Saxinger answered it will only be used for a church.

Mr. Sirb seconded the motion.

Mr. Dowling requested Mr. Turner to conduct a roll call vote: Mr. Reeder, aye; Mr. Emery, aye; Mr. Staub, aye; Mr. Sirb, aye; Mr. Dowling, aye.

Mr. Dowling noted the Special Exception has been granted.

This hearing ended at 8:50 p.m.

Respectfully Submitted,

Kristi Focht

Kristi Focht, Recording Secretary