

Lower Paxton Township
Zoning Hearing Board

August 25, 2022

Members Present:

David Dowling

Greg Sirb

Allan Hansen

Jeff Staub

Ron Reeder

Joe Murphy

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

Docket 1457

Applicant: Weis Markets, Inc.

Address: 1000 2nd Street PO Box 471 Sunbury, PA 17801

Property Owner: Weis Markets, Inc.

Property: 4300 Linglestown Road

Applicant: Requesting a variance from sign regulations in connection with the proposed installation of wall signs on a single tenant building and for a variance from the requirement to allow a service station (gas pumps) in the commercial neighborhood zoning district.

Fees Paid: August 2, 2022

Advertised: August 4, 2022, and August 8, 2022.

Posted: August 12, 2022

The Hearing Began at 7:00 p.m.

Mr. Dowling swore in applicants Joe Gurney, Director of Land Development with First Capital Engineering, Jack O'Hara and Alex Ororbie.

Mr. Dowling swore in Amanda Zerbe, Zoning Officer.

Mr. Dowling questioned Ms. Zerbe on what Township Ordinances are at issue.

Ms. Zerbe answered Section 714A, variance from sign regulations in connection with the proposed installation of wall signs on a single tenant building and Section 306B.1.d for a variance from the requirement to allow a service station (gas pumps) in the commercial neighborhood zoning district.

Mr. Dowling questioned if the appropriate fees have been paid.

Ms. Zerbe answered that the applicant paid the fees on August 2, 2022. Mr. Dowling questioned if the application had been properly advertised and hearing notices posted. Ms. Zerbe answered that it was advertised in the Hummelstown Sun on August 4, 2022, and August 8, 2022; posted on August 12, 2022 and 45 mailings were set to surrounding properties.

Mr. Dowling questioned where the mailings were sent to.

Ms. Zerbe answered they were addressed to the neighborhood directly behind Weis and to either side of Weis.

Mr. Dowling requested the applicants to begin their testimony.

Mr. Preston noted they have packets for each of the Board members along and the drawings will be displayed on the screen for the audience.

Mr. Dowling noted the packets will be entered as exhibits.

Mr. Preston continued that the application has two parts, the first is the updated and modernization of the wall signs and the larger issue are the proposed gas pumps.

Mr. Dowling questioned if the proposed signs are identical to those on the submissions.

Mr. Preston answered yes.

Mr. Dowling requested those to be submitted as an exhibit.

Mr. Preston marked the exhibit as A1, noting it contains nine sheets.

Mr. Dowling requested any additional copies be handed out to those in attendance in the audience. Mr. Dowling requested the applicant to briefly tell the Board about the proposed signs, their purpose and why they are necessary.

Mr. Gurney noted the proposed signs being the pharmacy sign, online pick up sign, Weis sign and the pub sign. Noting ordinance allows a total of two signs and allowable signage space is 921 square feet. The proposed total square footage of the proposed signs are 343 square feet. Mr. Gurney explained this Weis was built in 1992 and since then the needs of the grocery store has changed.

Mr. Sirb questioned if any of the signs will be lit 24/7.

Mr. Ororbie answered the signs are turned off at when the store closes.

Mr. Staub questioned the monument signs and the signage on the canopy.

Mr. Gurney answered the monument signs meet the ordinances. Mr. Gurney noted the diagram of where the signage will be located.

Mr. Staub questioned Ms. Zerbe if the applicant needed relief from the signage at the gas pumps.

Ms. Zerbe answered no.

Mr. Gurney used the screen to show where the proposed signs and decals would be located. Discussion followed noting to the four proposed signs and the decals that are located on the proposed canopy of the gas pumps.

Mr. Dowling questioned if any member of the audience wished to be heard regarding the sign issue alone.

Mr. Dowling swore in Dori Hoover of 4427 Venus Ave, noting she lives behind the Weis store.

Ms. Hoover noted that the signage the applicant is proposing will be facing that neighborhood.

Mr. Gurney noted the sign Ms. Hoover is speaking of is a decal sign that will be at a height of five feet four inches.

Ms. Hoover noted her concern of their fence because it is a six-foot fence and there is no buffer since they have removed the trees.

Discussion followed using the screen as to the location of Ms. Hoover's home location to the location of the store and the signage that she can see from her back yard.

Mr. Dowling questioned if anyone else from the audience wished to be heard regarding the sign issue.

No response was heard.

Mr. Dowling questioned Ms. Zerbe if she has an issue with the signs.

Ms. Zerbe answered no.

Mr. Dowling noted that the Board is going to consider this issue first, separately from the gas pumps.

Mr. Dowling questioned if any member of the Board wished to make a motion on the request for Weis as it relates to the four signs that are proposed on the building.

Mr. Sirb motioned to approve the signage of the four signs that are approved to the Weis building.

Mr. Hansen seconded the motion.

Mr. Dowling questioned if there was any further discussion by members of the Board.

No response was heard.

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

Mr. Dowling noted the first request for the four signs has been approved.

This portion of the hearing ended at 7:29 p.m.

The second portion of the continued at 7:30 p.m.

Mr. Dowling requested a brief summary of the pumps and lighting.

Mr. Preston requested Mr. Gurney to begin his testimony.

Mr. Gurney noted to the screen (Z02) as the existing conditions, Weis sits on 10.77 acres and owns a 9.3-acre plot of land to the east. Mr. Gurney moved to the proposed condition slide on the screen. The store is being expanded by 19,199 square feet, taking it from 45,125 square feet to 64,324 square feet. The proposed gas and go will be located near the new entrance and will have a 205 square foot kiosk, six fueling stations with three pods and the existing parking will be expanded. The plan during land development is to join the two properties in order to complete the project. He noted to small changes in the internal traffic flow.

Mr. Preston requested Mr. Gurney to speak on the need for additional parking.

Mr. Gurney noted that the proposed gas and go will be placed in proposed new parking area so they will not be taking parking spaces.

Mr. Preston questioned Mr. Gurney on the number of parking spaces.

Mr. Gurney answered the proposed parking spaces are 314 and currently there is 286 existing.

Mr. Preston questioned if the spaces are for the bank and Weis.

Mr. Gurney confirmed that is for the bank and Weis.

Mr. Preston question how that compares to the requirement.

Mr. Gurney answered with Weis expansion they would only need 221 but in total there will be a plus side of an additional of 59 spaces for the gas and go and bank.

Mr. Dowling questioned if there were any questions for this witness.

Mr. Dowling questioned where the new retention basin will be located.

Mr. Gurney noted to the screen and pointed on the screen to two suggestions where it could be located.

Mr. Sirb questioned if the new expansion will not impact the Paxton Creek flood plain, correct?

Mr. Gurney answered correct. He explained that the expansion is not proposed in that area and will be better described in land development.

Mr. Preston questioned Mr. Ororbie to his relationship with this project.

Mr. Ororbie answered he is the director for land development for Weis Markets and has been with Weis for 27 years.

Mr. Preston requested Mr. Ororbie to explain how things have changed for the grocery store over the years.

Mr. Ororbie explained that in the yearly 2000's and found their customers preferred a one stop shop and gave the example of the pharmacy, giving convenience to customers.

Mr. Preston requested Mr. Ororbie to explain how not only Weis Markets has changed but other grocery stores in the area.

Mr. Ororbie noted to the Giant Foods that is located down the road has gas pumps. He explained Weis must stay competitive with the other stores.

Mr. Preston questioned if these pumps are similar to a convenience store like 7/11.

Mr. Ororbie answered yes.

Mr. Preston questioned Mr. Ororbie if this is an industry standard business model.

Mr. Ororbie answered absolutely.

Mr. Preston questioned Mr. Ororbie if it is true the Lower Paxton Township zoning ordinance does not allow this business model.

Mr. Ororbie answered that in terms of a gas station, it is not allowed. He explained in his opinion it is an accessory use of the store. He continued and explained that since the pumps are interconnected to the computer system in the store they are acting as another cash register for the store.

Mr. Dowling noted the Board understands that the market has changed noting impart they granted the four signs. Mr. Dowling explained the ordinance says you cannot have it unless you

meet the four conditions of the variance. Mr. Dowling requested the applicants to tell him how this application meets those conditions so the Board should see what the ordinance allows you.

Mr. Preston explained the use they are talking of, there are not two principal uses, there is only one use, there is not a use a service station but equalivant to a modern retail grocery store. He continued with the unique conditions are that the ordinance disallows a recognized use and has to be conducted in a certain manner and that is part of the hardship.

Mr. Dowling noted he has read the submission three times. He questioned the applicant's argument is there is a hardship because the Lower Paxton Ordinance does not allow it.

Mr. Preston noted he feels this is an accessory use and should be made that.

Mr. Dowling noted it is not addressed as an accessory use.

Mr. Preston responded that is not how the Township directed us to. He explained they were told by the zoning office this use is an auto service station. He respectfully disagrees explaining. He noted the zoning office deemed it that way and that is why they are here this evening. He explained the hardship is that Weis at this site will not be able to place modern, complete, finically successful retail grocery store and the reason Weis cannot do that is because it has been interpreted as two principal uses on a lot. Mr. Preston noted you can find the pumps are an accessory use to the store.

Mr. Sirb questioned when Weis purchased the property.

Mr. Gurney answered 1992.

Mr. Sirb questioned Ms. Zerbe when it became a CN.

Mr. Zerbe answered 2006 when the zoning map changed.

Mr. Sirb questioned in 2006, Weis should have saw the change in the zoning and known gas pumps would be a red flag.

Mr. Ororbie noted Mr. Sirb has a valid point but at that time they were not ready because it would have impacted the parking and Weis had to purchase the adjacent lot.

Mr. Sirb noted Weis is a major company in central PA, questioned if there was any long-term planning to see this as an issue.

Mr. Preston noted he has done many of these plans and when the pump stations go in they take up parking spaces and to make this happen Weis had to wait to purchase the adjacent lot.

Mr. Dowling noted he is reading the application and questioned how do you argue there are unique physical conditions that would require the Board to deviate from the ordinance.

Mr. Preston responded their position is the new facility is accessory to the retail store, they operate it that way and construct it to be that way. He explained they were set to have to apply for a use variance for a service station, noting a service station is a standalone principal use and what is proposed is not a principal use, noting if that is causing you a problem that is causing the applicant a problem as well.

Mr. Dowling noted that technically the applicant cannot meet the requirements because of the strict requirements of the four-point test. He noted that might not have been the best path to take but that is the path before us tonight.

Mr. Preston responded that the applicant is arguing it is an accessory and the Board can interpret it to be an accessory use.

Mr. Dowling questioned Ms. Zerbe on how it was advertised, that is was advertised as a variance for signs and a variance for six gas pumps.

Ms. Zerbe answered correct. She explained you can't have an auto service station which is where gas pumps fall in the ordinance in the CN district.

Mr. Dowling noted by ordinance the six service pumps meet the definition of an auto service station.

Mr. Preston stated if that is what is there he would agree, noting that is not what's there.

Mr. Dowling noted that is what is stated in the ordinance

Mr. Preston noted that is stated as a principal use. He noted that the pumps are not a standalone use but a support use that is connected to the store. He noted the pumps are not located on their own tax parcel number.

Mr. Dowling questioned if Weis is open 24 hours.

Mr. Ororbie answered no.

Mr. Dowling questioned if the pumps will be opened 24 hours.

Mr. Ororbie answered no and explained they function as part of the store.

Mr. Sirb noted the applicant has a valid point and feels they need to re-advertise.

Ms. Zerbe noted that would have to be a change in the ordinance to allow a gas pump dispensary as an accessory to a grocery store.

Mr. Dowling requested Ms. Zerbe to give an example of an accessory use.

Ms. Zerbe answered you may have tire store and a separate place to store the tires.

Mr. Sirb questioned Ms. Zerbe is the wording gas pumps the issue.

Ms. Zerbe answered the wording gas station and pumps is only found within auto service station.

Mr. Preston noted he feels the Board has the power to interpretation.

Mr. Dowling noted the Board will take a break and go into an executive session.

Mr. Dowling noted they can do one of two options. The Board can take a vote on the request for the variance, or you can withdraw your request for a variance and peruse the accessory use argument.

Mr. Dowling questioned is there was anyone in the audience who would like to make a comment.

Mr. Dowling swore in Holly Evans, Owner of Blue Mountain Property, LLC. Ms. Evans owns the adjoining properties to the east.

Ms. Evans noted to a concern with the amount of construction traffic on the shared easement from Patton Road to the Weis property. She noted conditions cannot be placed at land development, so they must be done here. She noted that during construction she does not want dump trucks carrying loads of materials on the road in front of her shopping center. She noted her second concern is having a speed table or hampering device to slow traffic down.

Mr. Dowling questioned the applicants if they have a decision.

Mr. Preston answered they would not pursue this anymore this evening, they will withdraw their variance for the gas pumps.

Mr. Dowling noted to Ms. Evans they will re-advertise and come before the Board again.

Mr. Dowling noted the members of the audience the applicant has withdrawn the application and will most likely reapply and will argue the gas pumps are an accessory use.

The meeting ended at 8:20 p.m.

Respectfully Submitted,

Kristi Focht

Kristi Focht, Recording Secretary