

IN THE MATTER OF : BEFORE THE LOWER ALLEN TOWNSHIP
THE APPLICATION OF : ZONING HEARING BOARD
 : CUMBERLAND COUNTY, PENNSYLVANIA
SHEETZ, INC. :
 : DOCKET NO. 2019-09

**DECISION GRANTING VARIANCES
AND SPECIAL EXCEPTION**

The Applicant seeks variance and special exception relief to erect a fueling, fast food and convenience store facility. A hearing was held before the Board on November 21, 2019.

FINDINGS OF FACT

1. Notice of the hearing was properly advertised, the subject property was posted, and all property owners required to be notified of the hearing were notified in accordance with the Codified Ordinances.

2. The Applicant is Sheetz, Inc., whose address is 243 Sheetz Way, Claysburg, PA 16625.

3. The subject property consists of two contiguous tracts of land in a C-1 zoning district, known as 1500 and 1510 Cedar Cliff Drive.

4. Both tracts are located on the east side of Cedar Cliff Drive. A portion of 1510 Cedar Cliff Drive is located in the Borough of New Cumberland.

5. The property at 1500 Cedar Cliff Drive is owned by HET Enterprise, LLC, consists of approximately .6 acre, and is currently improved with a building used as a gasoline service station.

6. The property at 1510 Cedar Cliff Drive is owned by P. Hastings, LLC, consists of approximately 2 acres, and is currently improved with a commercial building formerly used a bank.

7. The subject property is bounded on the east by the entrance ramp for Route 83 south, on the north by Carlisle Road, and on the south by a church and office building.

8. The subject property is generally triangular in shape.

9. In the application as originally filed, Applicant proposed to demolish the existing buildings, and to erect a building of 6,077 square feet, a fueling canopy and off-street parking. Applicant requested two variances.

10. The Applicant amended its application before the hearing, and proposes to demolish the existing buildings, to erect a Sheetz Store, 4,913 square feet in area, vehicle fueling facilities, off-street parking and related improvements. Applicant now requests two variances and a special exception.

11. The store will be used for retail sale of fuel and convenience items, and a fast food restaurant. It will be open all the time.

12. The vehicle fueling facilities consist of six pumps (twelve fueling stations), and a canopy, occupying 5,316 square feet. Applicant believes that fewer than twelve fueling stations would be inadequate, and result in vehicle congestion and unsafe conditions.

13. The Applicant proposes to provide 40 off-street parking spaces. Based upon its experience in operating similar facilities and a parking analysis, Applicant believes 40 spaces will be adequate.

14. The Applicant intends to preserve as much of the existing vegetation as possible.

15. To ameliorate concerns expressed by nearby property owners, the Applicant has proposed various conditions on approval of the requested relief.

16. Several residents expressed concerns about the project, including issues such as traffic, pedestrian safety, parking, noise, lighting, and road damage. Other residents offered support for the application.

CONCLUSIONS OF LAW

1. Under Sections 220-266 and 220-269(B)(5) and (C) of the Codified Ordinances, the Zoning Hearing Board has jurisdiction to hear and decide a request for a variance.

2. Section 220-49(B) of the Codified Ordinances provides that unless it is part of a shopping center, no single use shall exceed 4,000 square feet in area.

3. Section 220-49(C) limits retail sale of fuel to a capacity to serve no more than 8 vehicles at a time.

4. The unusual shape of the subject property, its location in two municipalities, its multiple road frontages, and traffic congestion which would result from inadequate vehicle fueling facilities combine to create an unnecessary hardship.

5. A variance is necessary to accommodate safe and functional vehicle fueling facilities.

6. The unnecessary hardship has not been created by the Applicant.

7. The requested relief will not alter the essential character of the district in which the subject property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.

8. The requested variances represent the minimum variances to afford relief.

9. The requested variances are dimensional in nature.

10. The Board's jurisdictional authority to decide a request for a special exception is provided in Sections 220-269(B)(6) and (D) of the Codified Ordinances.

11. The Codified Ordinances require 79 off-street parking spaces for the uses on the subject property.

12. Section 220-241 of the Codified Ordinances authorizes the Board to reduce, by special exception, the number and size of off-street parking space requirements where the Applicant can justify the reduction and still provide adequate off-street parking facilities.

13. The Applicant has established to the Board's satisfaction that 40 off-street parking spaces will be adequate, and has demonstrated compliance with all of the standards and criteria for the requested special exception.

14. The proposed special exception will not be detrimental to the public health, safety or welfare.

DECISION

Based upon the foregoing findings and conclusions, and in consideration of the testimony and evidence presented to the Board, it is the decision of the Board that the Applicant's request for variance relief and a special exception be and is hereby granted, subject to the following conditions: 1) the gross floor area of the proposed Sheetz building shall not exceed 4,950 square feet; (2) as part of the land development plan review process, the traffic impact study for the proposed development shall be updated to include a pedestrian analysis that incorporates pedestrian counts performed on three additional school days; (3) exterior lighting shall comply with the following additional standards: A. All exterior lighting fixtures that are mounted on poles or the building shall be LED fixtures with full cutoffs. Lighting fixtures under the fuel canopy shall be LED fixtures that are recessed or flush mounted; B. The maximum height of lighting fixtures that are mounted on poles shall not exceed 20 feet above grade; C. All exterior lighting fixtures that are mounted on poles or the building shall be limited to a maximum average of 10 footcandles. Lighting fixtures under the fuel canopy shall be limited to a maximum average of 25 footcandles; (4) Except for the drive-through intercom, all exterior speakers, including speakers

on the building, canopy or pumps, shall be turned off or down so that such speakers do not emit sound between the hours of 10 p.m. and 7 a.m. (with the exception of activation for emergencies or safety checks); (5) Along the southern boundary of the proposed Sheetz site extending from the western end of the proposed retaining wall to 20 feet from the right of way line of Cedar Cliff Drive, evergreen shrubs and/or a privacy fence shall be installed to screen headlights of vehicles circulating within the Sheetz site; (6) fuel and merchandise deliveries shall be prohibited during the hours of 6 a.m. to 9 a.m. and 4 p.m. to 7 p.m. (Monday through Friday); (7) the dumpster shall be emptied a minimum of five times per week; (8) If, as part of the approval of the land development plan for the Sheetz facility, the Township's Board of Commissioners desires that the sidewalks along the eastern side of Cedar Cliff Drive from Carlisle Road to Allendale Way be widened to six feet, then (i) such land development plan, as recorded, shall propose six foot wide sidewalks along the Sheetz site's frontage along Cedar Cliff Drive and (ii) prior to recording of a land development plan for the proposed Sheetz facility, Sheetz shall provide to the Township a lump sum payment in the amount of cost of widening sidewalk from the Sheetz site to Allendale Way, as reasonably determined by the Township's engineer and at a cost

not to exceed \$10,000.00.; (9) Sheetz shall not install, or pursue or agree to the installation of, logo signs or tourist oriented directional signs along I-83 and/or Route 0581 to advertise or identify the proposed Sheetz facility or products and services offered at such facility; (10) the proposed canopy shall be generally consistent with the design that is depicted on Exhibit A-8. The fascia of such canopy shall not be back-lit; and 11) that Applicant maintain strict conformance with the testimony, plans and evidence presented to the Board.

LOWER ALLEN TOWNSHIP ZONING
HEARING BOARD

Ann Sheetz

Sharon

Solicitor

Date: 12-23-2019