

IN THE MATTER OF : BEFORE THE LOWER ALLEN TOWNSHIP  
THE APPLICATION OF : ZONING HEARING BOARD  
FCPT HOLDINGS, INC. : CUMBERLAND COUNTY, PENNSYLVANIA  
: :  
: DOCKET NO. 2020-04

**DECISION GRANTING VARIANCES**

The Applicant seeks three variances to facilitate subdivision of commercial property. A hearing was held before the Board on May 21, 2020.

**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 FCPT Holdings, Inc., 591 Redwood Highway, Suite 1150, Mill Valley, CA 94941.

3. The owner of the subject property is PR CC Limited Partnership, LP, c/o Preit Services, LLC, 200 South Broad Street, 3<sup>rd</sup> Floor, Philadelphia, PA 19102.

4. The subject property is a tract of land in a C-4 zoning district, improved with buildings and facilities known as the Capital City Mall.

5. The subject property is approximately 43 acres in area, bounded on the north by U.S. Route 15, on the south by Hartzdale Drive, on the west by Lower Allen Drive and on the east by Capital City Mall Drive.

6. The Applicant desires to subdivide the property into three lots. Lot 2 will be located near the southeastern corner, contain .93 acres, and the existing building, parking and related facilities known as Mavis Discount Tire. Lot 3 will be located near the southwestern corner, contain .75 acres, and the existing building, parking and related facilities known as Outback Steakhouse. Lot 1 will consist of the remaining 41.7 acres and improvements.

7. The Applicant has established cross-easements for the three lots pertaining to ingress, egress, parking and signage.

8. The Applicant seeks variance relief because proposed Lots 2 and 3 will not comply with the impervious coverage, parking area landscaping and parking space setback requirements of the Codified Ordinances.

9. The subject property has impervious coverage of 93%, which is legally nonconforming. Lot 2 will have impervious coverage of 99% and Lot 3 will have impervious coverage of 83%, all of which is existing.

10. Less than 5% of the parking area of the subject property is landscaped, which is a legally nonconforming condition. Less than 5% of the parking areas on Lots 2 and 3 will be landscaped.

11. Some of the parking spaces and access drives on the subject property are located within 5 feet of a lot line, which is a legally nonconforming condition. Some of the parking spaces and access drives on proposed Lots 2 and 3 will likewise be located within 5 feet of a lot line.

12. The Applicant proposes no change to the physical appearance of the subject property.

13. No one objected to the proposed relief.

#### **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. Under section 220-74 of the Codified Ordinances, impervious coverage on a lot in a C-4 zoning district shall not exceed 70%.

3. Section 220-200(B)(1) provides that at least 5% of the interior parking area shall be landscaped.

4. Section 220-242(L)(2)(b) provides that all parking spaces, driveways and access drives shall be at least five feet from any lot line.

5. The unusual configuration of the subject property resulting from its partial bifurcation by another property, the location of the existing improvements, and its existence as a multiple frontage lot combine to create an unnecessary hardship.

6. Variance relief is necessary to enable the reasonable use of the subject property.

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

8. 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.

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

10. The requested relief does not pertain to the use of the subject property.

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 be and is hereby granted, subject to the following conditions: 1) that Applicant include a reference on the approved and recorded subdivision plan that cross-easements have been granted for all lots for ingress, egress, parking and signage; and 2) that Applicant maintain strict conformance with the testimony, plans and evidence presented to the Board.

LOWER ALLEN TOWNSHIP ZONING  
HEARING BOARD

Ann Moran

[Signature]

Solicitor

Date: 6-1-2020