

**LOWER ALLEN
ZONING HEARING BOARD**

IN THE MATTER OF: 920 Century Drive
 Zone: General Commercial (C-2)
 Applicant: Provco Pinegood Century, LLC
 Property Owner: 920 Century, LP
 Application No. 2025-02

REQUEST FOR: **SPECIAL EXCEPTION FOR ZONING RELIEF FROM THE
NUMBER OF REQUIRED OFF-STREET PARKING
SPACES, A VARIANCE FOR ZONING RELIEF TO
MAXIMUM HEIGHT OF SOLID SCREENING AND AN
EXTENSION OF TIME FRAMES TO OBTAIN ZONING
PERMIT**

BEFORE: Moran, Chair
 Bonneville, Member
 Massott, Member

DECISION

Applicant filed an application for a: (1) special exception for zoning relief for the number of off street parking spaces required for a convenience store use, a fast food restaurant use, and a gasoline service station/vehicular service establishment use; (2) variance for zoning relief from the maximum height for solid screening of a dumpster in the front yard; and (3) an extension of the 12 month time period to obtain a zoning permit or complete construction of the use on the property at 920 Century Drive, which is located in the General Commercial (C-2) Zoning District. The Zoning Hearing Board (Board) considered and decided Applicant's zoning relief requests at a hearing held on February 20, 2025.

EXHIBITS

- B-1 Application for zoning relief
- B-2 Narrative attached to application
- B-5 Parking Demand Evaluation

B-6 Certificate of Service of public notice and written notice of hearing on special exception application

A-1 Aerial view of property

A-2 Site Plan

A-3 Revised Site Plan

A-4 Dumpster Enclosure Plans

A-5 Building Plans

A-6 Parking Study/Parking Demand Evaluation

T-1 Zoning Hearing Board Docket Summary

FINDINGS OF FACT

1. On or about January 21, 2025 Provco Pinegood Century, LLC (Applicant) applied for zoning relief in the form of a: (1) special exception for zoning relief from the number of required off street parking spaces; (2) a dimensional variance from the maximum height for solid screening in the front yard; and (3) an extension of the 12 month time period to obtain a zoning permit or complete construction of the proposed use on the property located at 920 Century Drive, Mechanicsburg, Pennsylvania (property).

2. A hearing on the application took place on February 20, 2025.

3. Public notice of the hearing on the application was published in the Patriot News on February 4, 2025, and February 11, 2025. Notice of the hearing was posted at the Lower Allen Township Municipal Building and on Township's website on January 29, 2025, and placed on Applicant's property on February 3, 2025.

4. Notice of the hearing was mailed to Applicant and adjoining property owners on February 4, 2025.

5. No objections as to the method and timing of notice and advertising were raised.

6. No objections as to any of the exhibits submitted into the record at the hearing were raised.

7. The property is located in the General Commercial (C-2) Zoning District.

8. The Applicant has standing to pursue the zoning relief requested as it is the equitable owner of the property and has the authorization of the record owner of the property, 920 Century, LP.

9. Testimony at the hearing was taken from Ed Glace, engineer with Gilmore & Associates, Inc., and Jason Wheeler, engineer with Traffic Planning & Design, Inc., on behalf of Applicant. Applicant was represented at the hearing by Jonathan Andrews, Esq., from McNees Wallace & Nurick, LLC.

10. The property is approximately 2.35 acres and features a single story vacant office building.

11. The property is a corner lot abutting Century Drive to the north and west, and Wesley Drive to the south.

12. There is an access drive connecting the parking lot located to the north of the building to Century Drive.

13. There are a few parking spaces located to the east of the building.

14. Applicant intends to demolish the office building and construct an approximate 6,049 square foot building designed for retail sales of prepackaged and prepared food and beverages as well as household items and other similar goods. Customers will be able to consume food and beverages on-site in an indoor dining area or off-site.

15. The property will also feature a fueling canopy over eight (8) double sided fuel pumps for retail gasoline sales, which will be located on the southern portion of the property.

16. Wawa, Inc. will establish and operate the convenience store with fueling facilities on the property.

17. Convenience stores with fueling facilities are permitted by right in the C-2 District.

18. Fifty (50) parking spaces are designed around all four (4) sides of the proposed structure, and three (3) new private drives are proposed to provide access to the site from Century Drive.

19. A decorative walled dumpster enclosure that will be eight (8) ft. in height, is designed to be located toward the northwestern corner of the property.

20. The proposed convenience store with fueling facilities will operate 24 hours a day, seven (7) days a week.

21. Land to the north, northeast, and west of the property is developed with offices and professional services; land to the east of the property is developed with retail, restaurant, personal service, and vehicle service businesses; land to the southwest of the property includes a continuing care retirement community; and land to the northwest of the property is developed with a building supply distributor.

22. The convenience store use requires 25 off-street parking spaces (3,614 sq. ft./150 sq. ft.); the fast food restaurant use requires 82 off-street parking spaces (2,435 sq. ft./30 sq. ft.); and the fuel sales use requires three (3) off-street spaces (8 fuel positions/3 fuel pumps); which totals 110 off-street parking spaces required for the proposed operation.

23. Applicant plans to provide 50 off-street parking spaces on-site and seeks a special exception for zoning relief for 60 required off-street parking spaces..

24. The proposed operation will not adversely impact parking outside of the site as it will not utilize parking on streets or other areas beyond the site itself.

25. It is believed the site design provides for the availability of emergency services to all uses of the operation. This will be further addressed and confirmed during the Land Development phase.

26. Peak traffic and parking demands generated by the proposed operation will be accommodated in a safe and efficient manner

27. The proposal will not adversely impact the character of the existing neighborhood nor will it substantially detract from the use of neighboring property.

CONCLUSIONS OF LAW

1. The Lower Allen Township Zoning Hearing Board has jurisdiction to hear the above-captioned application pursuant to Section 220-269(B)(5) & (6) of the Lower Allen Township Zoning Ordinance and 53 P.S. Section 10909.1(a)(5) & (6) of the Pennsylvania Municipalities Planning Code.

2. Proper notice of the hearing was given to the public and to all interested parties.

3. Exhibits B-1 through B-6, A-1 through A-6, and T-1 were properly admitted into evidence.

4. Applicant has sustained its burden of proof for a special exception for zoning relief from the off-street parking spaces required for the uses proposed for the operation described in its application and attached narrative in accordance with the attached discussion and decision.

5. Applicant has sustained its burden of proof for the dimensional variance from the maximum height of solid wall screening in the front yard of the property in accordance with the attached discussion and decision.

6. Applicant has sustained its burden of proof for an extension of the 12 month time period to obtain a zoning permit and complete construction of a development granted by a special exception in accordance with the attached discussion and decision.

DISCUSSION

The property is located in the General Commercial (C-2) Zoning District which is regulated by Article 9 of Chapter 220 – Lower Allen Township Zoning Ordinance (Ordinance). Applicant is proposing to develop the property to construct and operate a convenience store with fuel sales, and a fast food restaurant. The Ordinance provides the off-street parking requirements for each use. Section 220-239(A) A convenience store use requires one (1) off-street parking space per 150 sq. ft of gross floor area (GFA). Applicant's proposed convenience store will be 3,614 sq. ft., which equates to 25 required off-street parking spaces. A fast food restaurant use requires one (1) off-street parking space per 30 sq. ft of GFA. Applicant's proposed fast food restaurant will be 2,435 sq. ft., which equates to 82 required off-street parking spaces. A gasoline service station use requires one (1) off-street parking space per 3 fuel pumps. Applicant is proposing eight fuel pumps, which equates to 3 off-street parking spaces. The operation on the property will require 110 off-street parking spaces. Applicant is proposing to provide 50 off-street parking space. The Ordinance allows for a reduction in the number of required off-street parking spaces by the Board's approval of a special exception application where the applicant can justify the reduction and still provide adequate parking facilities and stacking distances to serve the proposed uses of the structure or land. Section 220-241 Applicant applied for a special exception for zoning relief from 60 of the off-street parking spaces required for the proposed operation on the property.

Applicant submitted a parking demand evaluation (PDE or evaluation) prepared by Traffic Planning and Design, Inc. (TPD) describing the parking demands of the proposed operation

on the property at its peak times during the week and weekend. See Ex. B-5 & A-6 This evaluation was based on parking generation data obtained from the Parking Generation Manual, 6th Edition, 2023 (Manual), which was prepared by the Institute of Transportation Engineers (ITE)¹. Based on the data, it was determined that the average peak parking demand rate for a convenience store on a weekday was 8.21 per 1,000 sq. ft. of gross floor area, which equated to 50 parked vehicles on the property at the average peak parking demand time ($8.21 \times 6.049 = 49.66$). TPD also used the ITE Manual to calculate the average peak parking demand rate on a Saturday (5.67 per 1,000 sq. ft.), which equated to 34 parked vehicles on the property at the average peak parking demand time ($5.67 \times 6.049 = 34.30$).

The PDE was also based on manual parking counts at an existing Wawa store located in Hilltown, (Bucks County) PA. The Hilltown location consists of a 5,585 sq. ft. store with 16 fueling positions which is comparable to the Wawa store proposed in the application. The peak parking demand period for a convenience store/gas station use is 12:00 – 1:00 p.m. during a weekday. (ITE 2023 Manual). Applicant's traffic engineer did manual counts on Wednesday, October 5, 2023 for the full 24 hour day and Thursday, between 11:30 a.m. and 1:30 p.m. to cover the peak time. The manual counts revealed that the peak parking demand was 43 vehicles at 7:00 a.m. at the Hilltown location.

Applicant proposes 50 off-street parking spaces on the property to serve the multiple uses on-site, which equals the average peak parking demand of 50 parked vehicles for a weekday and exceeds the average peak parking demand of 34 parked vehicles utilizing ITE's 2023 Parking

¹ The manuals are typically the industry standard in calculating parking demand for various uses. ITE solicits and obtains data nationwide based on manual parking counts for various uses. ITE compiles the data for a particular land use and develops a parking demand rate that is utilized to calculate the peak parking demand, or the single highest parking demand over the course of a day. This is done by multiplying the rate by the store size, for a convenience store use.

Generation Manual. Also, the 50 proposed off-street parking spaces exceed the peak parking demand of 43 vehicles observed during the manual parking counts conducted at the existing Wawa Hilltown PA location which is comparable to the proposed Wawa on Century Drive.

The requested reduction of required off-street parking spaces will minimize the amount of earth disturbance, and tree removal, as well as reduce the amount of impervious surface and stormwater runoff on the property.

Applicant submitted sufficient evidence to justify the reduction of required off-street parking spaces from 110 spaces to 50 spaces, which will still provide adequate parking facilities and stacking distances to serve the proposed uses of the Wawa operations on the property.

The Ordinance states the following for a Special Exception application and its requirements for approval:

Section 220-269 Zoning Hearing Board

D. Special exceptions.

In this chapter, special exceptions may be granted or denied by the Zoning Hearing Board pursuant to expressed standards and criteria contained in this chapter. The Zoning Hearing Board shall hear and decide requests for such special exceptions in accordance with such standards and criteria and prescribe the application form to be used. The Board may grant approval of a special exception, provided that the applicant complies with the following standards and that the proposed special exception shall not be detrimental to the health, safety or welfare of the neighborhood. The burden of proof shall rest with the applicant.

(1) The applicant shall establish, by credible evidence, compliance with all conditions on the special exception contained within this chapter which give the applicant the right to seek the special exception.

(2) The applicant shall establish, by credible evidence, that the proposed special exception shall be properly serviced by all existing public service systems. The peak traffic and parking demands generated by the subject of the application shall be accommodated in a safe and efficient manner or improvements shall be made in order to effect the same. Similar responsibilities shall be assumed with respect to other public service systems, including, but not limited to police protection, fire protection, utilities, and parks and recreational facilities.

(3) The applicant shall establish, by credible evidence, that the proposed special exception shall be in and of itself properly designed with regard to internal circulation, parking, buffering and all other elements of proper design as specified in this chapter and any other governing law or regulation.

(4) The applicant shall provide the Board with sufficient plans, studies or other data to demonstrate compliance with all applicable regulations.

(5) For uses, structures or any development within the overlay Floodway (FW) and Flood Fringe (FF) Districts, the applicant shall present evidence of the effect of the use, structure or development on flood levels, flood frequencies and velocities; the susceptibility of the use, structure or development to flood damage; the availability of emergency access to the use, structure or development in times of flood; the necessity of the use, structure or development to be located near the floodplain; and the compliance with the requirement that the use, structure or development will not be located in the floodplain if the use, structure or development increases the base flood elevation.

(6) The applicant shall inform the Board whether any structures on the property are listed upon the National Register of Historic Places or any other registry of historic structures.

(7) The proposed special exception shall not substantially injure or detract from the use of neighboring property or from the character of the neighborhood and the use of property adjacent to the area included in the special exception application shall be adequately safeguarded.

The property is currently served by public water, public sewer and utilities which will continue for the proposed operation. Applicant submitted credible evidence (parking demand evaluation) that the peak traffic and parking demands generated by the multiple uses proposed for the site shall be accommodated in a safe and efficient manner. Applicant established that the proposed operation will not substantially injure or detract from the use of neighboring property or from the character of the neighborhood; and the use of property adjacent to the property will be adequately safeguarded.

Accordingly, we find that the Applicant has sustained its burden of proving entitlement to the special exception requested for zoning relief from 60 off street parking spaces required for the Wawa convenience store, fast food restaurant, and fuel sales uses proposed for the property.

VARIANCE

Applicant seeks a dimensional variance to construct an eight (8) ft. solid screening enclosure of a dumpster in the front yard of the property that will exceeds the six (6) ft. height requirements stated in Section 220-201(B)(1)(a) – Screening Requirements of the Township Zoning Code.

In reviewing the application requesting the dimensional variance, the Zoning Hearing Board must take into account the criteria as set forth in Section 220-269 of the Township Zoning Ordinance which states the following:

Section 220-269 Zoning Hearing Board

C. Variances.

The Zoning Hearing Board shall hear requests for variances where it is alleged that the provisions of this chapter inflict unnecessary hardship upon the applicant. The Zoning Hearing Board may, by rule, prescribe the form of application and may require application to the Zoning Officer. The Zoning Hearing Board may grant a variance, provided that the following findings are made where relevant in a given case:

(1) That there are unique physical circumstances or conditions, including irregularity, narrowness or shallowness of lot size or shape or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of this chapter in the district in which the property is located.

(2) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this chapter and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

(3) That such unnecessary hardship has not been created by the appellant.

(4) That the variance, if authorized, will not alter the essential character of the district in which the property is located nor substantially or permanently impair the appropriate use or development of adjacent property nor be detrimental to the public welfare.

(5) That the variance, if authorized, will represent the minimum variance that will afford relief and represent the least modification possible of the regulation in issue. In granting any variance, the Zoning Hearing Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this chapter.

Applicant submitted a request for two (2) dimensional variances which were necessary due to the proposed 9 ft. height of the solid screening/enclosure of the dumpster in the front yard of the property. At the hearing on February 20, 2025, applicant reduced the height of the dumpster enclosure to eight (8) ft; which eliminated the necessity of one of the dimensional variance². Applicant still requires a variance from the six (6) ft. maximum height restriction for solid screening located in the front yard of the property. Section 220-201 (B)(1)(a).

Common law distinguishes between a dimensional variance and a use variance. A use variance applicant requests to use the property in a manner prohibited by the zoning regulation. *Hertzberg v. Zoning Bd. of Adjustment*, 554 Pa. 249, 264, 721 A.2d 43, 47 (Pa. 1998). A dimensional variance allows for the reasonable adjustment of the zoning regulation in order to utilize the property as desired. *Dunn v. Middletown Twp. Zoning Hearing Bd.*, 143 A.3d 494, 501 (Pa. Commw. 2016).

When considering a dimensional variance for purposes of determining unnecessary hardship, a Zoning Hearing Board is able to consider multiple factors not applicable to the use variance test, such as the financial hardship created by any work necessary to bring the property into strict compliance with the ordinance, the economic detriment to the applicant if the variance was denied, and the characteristics of the surrounding neighborhood. *Soc'y Created to Reduce Urban Blight v. Zoning Bd. of Adjustment*, 771 A.2d 874, 877 (Pa. Commw. 2001). Unreasonable economic burden may be considered in determining the presence of unnecessary hardship. *Yeager v. Zoning Hearing Bd. Of City of Allentown*, 779 A.2d 595, 598 (Pa. Cmwlth. 2001) In *Marshall v. City of Philadelphia*, 97 A.3d 323 (Pa. 2014), the Pennsylvania Supreme Court stated “This

² Section 220-215 of the Zoning code states the maximum height of a fences or walls located anywhere on a lot where a primary building can be located are limited to eight feet in height. This request for a dimensional variance was unnecessary when applicant reduced the height of the wall enclosure from nine (9) ft. to eight (8) ft.

Court has repeatedly made clear that in establishing hardship, an applicant for a variance is not required to show that the property at issue is valueless without the variance or that the property cannot be used for any permitted purpose” *Id.* at 330. A dimensional variance therefore compels a slightly lowered standard from a use variance, but must still address the aforementioned factors, including the showing of an unnecessary hardship. *Tri-Cnty. Landfill, Inc. v. Pine Twp. Zoning Hearing Bd.*, 83 A.3d 488, 520 (Pa. Commw. 2014). The reason for treating a dimensional variance more leniently than a use variance is that the applicant is asking for nothing more than a reasonable adjustment of the zoning regulations for the purpose of utilizing the property in a manner consistent with the zoning regulation. *Hertzburg* at p. 264.

The property is a uniquely shaped corner lot abutting two public streets; Wesley Drive and Century Drive, along three of its sides; including Century Drive to the north and west; and Wesley Drive to the south. Along the fourth side, the property abuts an empty lot and a lot developed with a shopping center and a convenience store with fueling stations. About 60% of the property’s perimeter abuts these two streets. Although the property has frontage along these two streets, access to the property is limited to off of Century Drive. The hardship is due to the unique and irregular physical circumstances and conditions of the property.

Applicant did not create the unnecessary hardship as it predates applicant’s equitable ownership of the property. The requested variance is necessary for the redevelopment of the property into a permitted use in the C-2 Zoning District, and will not alter the essential character of the district or substantially impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare. Finally, the requested variance represents the minimum variance that will afford relief and represents the least possible modification of the code

requirements. Applicant reduced the height of the solid screening dumpster enclosure from 9 ft. to 8 ft. to eliminate one of the requested variances.

Accordingly, we find that Applicant has sustained its burden of proof for a dimensional variance to construct an 8 ft. solid screening dumpster enclosure in the front yard of the property, which exceeds the 6 ft. maximum height restriction for such screening. Section 220-201(B)(1)(a).

EXTENSION OF TIME LIMIT

A special exception shall expire if an applicant fails to obtain a zoning permit or complete construction of the use within twelve (12) months from the date of authorization/approval by the Board. Section 220-269 (D)(9) – Special Exceptions. Applicant requested an extension of the 12 month time period for an additional one year period. The Board may extend the approval for an additional period of up to one year for reasonable cause shown by applicant. Section 220-269(D)(9)

Applicant stated that there are occasions where unforeseen circumstances arise during the land development and permitting approval processes or construction phase that can add unexpected delays to the project. Applicant requests the additional one year period to manage and work through any unforeseen issues that may arise and obtain any necessary municipal approvals and required outside agency approvals, to obtain a zoning permit and complete the work authorized by the Board's approval of its requests for zoning relief.

Based on the foregoing, we find Applicant has met its burden of proving reasonable cause for an extension of the twelve (12) month special exception time period for an additional one year period.

ORDER

Applicant is granted a special exception as authorized by Section 220-241 of the Ordinance for zoning relief from 60 off-street parking spaces required for the multiple proposed uses on the property pursuant to Sections 220-239(A) of the Ordinance.

Applicant is granted a variance for zoning relief from the 6 ft. maximum height restriction for solid screening located in the front yard of the property pursuant to Section 220-201(B)(1)(a). Applicant is permitted to construct a solid screening dumpster enclosure that is 8 ft. in height in accordance with the plans submitted with the application and at the February 20, 2025 hearing. See Exhibits B-1, A-3, and A-4.

Applicant is granted an extension to the twelve (12) month special exception time period for an additional year to obtain a zoning permit and complete the work authorized by this decision and order.

The above approvals of applicant's zoning requests applies to the property located at 920 Century Drive, Mechanicsburg, PA.

LOWER ALLEN TOWNSHIP ZONING HEARING BOARD

Date: 3/10/2025 | 7:09 AM PDT By: *Ann Moran*
Ann Moran, Chair