



TOWNSHIP OF FERGUSON

3147 Research Drive • State College, Pennsylvania 16801
Telephone: 814-238-4651 • Fax: 814-238-3454
www.twp.ferguson.pa.us

Zoning Hearing Board Regular Meeting Agenda August 24, 2021 7:00 PM

- I. CALL TO ORDER
 - II. CITIZEN'S INPUT
 - III. PLEDGE OF ALLEGIANCE
 - IV. INTRODUCTION OF BOARD MEMEBERS
 - V. APPROVAL OF MINUTES
 - 1. July 27, 2021 minutes
 - VI. SWEARING IN OF THOSE WHO WISH TO TESTIFY
 - VII. THE ZONING HEARING BOARD SOLICITOR EXPLAINS THE BASIS FOR GRANTING A VARIANCE
 - VIII. NEW BUSINESS
 - 1. MIKE PATEL / RITA'S ITALIAN ICE
 - 10 minutes
- Narrative**
The variance request of the Mike Patel, Rita's Water Ice 1609 North Atherton Street, State College, PA. 16803, Tax Parcel 24-010-017. The applicants is requesting variances to Chapter 27-209.1 and Chapter 27-209.1.E to permit two awnings to extend into the front and side yard setbacks. The property is located in the C-General Commercial Zoning District.
- IX. CALENDAR ITEMS
 - 1. Next meeting will be September 28, 2021 pending agenda items.
 - X. ADJOURNMENT

**FERGUSON TOWNSHIP ZONING HEARING BOARD
REGULAR MEETINGS
TUESDAY, July 27, 2021
7:00 p.m.**

I. ATTENDANCE

The Zoning Hearing Board held a hearing on Tuesday, May 25, 2021. In attendance were:

Board:

Michael Twomley- Chair
Susan Buda – Vice Chair
Swamy Anantheswaran- Secretary
Mike MacNeeley
Irene Wetzel
Stefanie Rocco, Alternate
Ron McLaughlin, ZHB Solicitor

Staff

Jeff Ressler, Zoning Administrator
Summer Brown, Recording Secretary
David Pribulka, Township Manager

Others in attendance were: Kayla Sipes, Ferguson Township Resident; Matt & Gene Corl, Ferguson Township Residents; Ben Burns, Representative for Herbert, Rowland, & Grubic; David Gaines, Representing UAJA from Miller, Kistler, and Campbell; Shelby McVey, UAJA; Mr. Robert McCauley, Ferguson Township Citizen; Asif Khatri, Central PA Islamic Society; Terry Williams, representing Islamic Society of Central PA from Miller, Kistler, and Campbell.

II. CALL TO ORDER

The Ferguson Township Zoning Hearing Board meeting was called to order on Tuesday, July 27, 2021 at 7:01 pm.

III. CITIZEN'S INPUT

IV. PLEDGE OF ALLEGIANCE

V. INTRODUCTION OF BOARD MEMBERS

VI. APPROVAL OF MINUTES

1. May 25, 2021 minutes.

Mr. Michael Twomley called for a motion to approve the May 25, 2021 meeting minutes. Mrs. Irene Wetzel made a motion to the meeting minutes, Mr. Michael MacNeely seconded the motion, and the motion passed unanimously.

VII. SWEARING IN OF THOSE WHO WISH TO TESTIFY

Mr. Jeff Ressler, Mr. David Pribulka, Mr. Terry Williams, Mr. Ben Burns, Mr. David Gaines, Ms. Kayla Sipes, Mr. Robert McCauley.

VIII. THE ZONING HEARING BOARD SOLICITOR EXPLAINS THE BASIS FOR GRANTING A VARIANCE/APPEAL

Mr. Ron McLaughlin solicitor went over the criteria for a variance.

IX. ZONING OFFICER EXPLAINS THE BASIS OF VARIANCE/APPEAL REQUEST

X. NEW BUSINESS

1. UNIVERSITY AREA JOINT AUTHORITY (UAJA)

Mr. Ressler explained that the first variance request is for University Area Joint Authority. The property that is subject of this hearing is 3895 Scott Road, State College, PA. Tax Parcel 24-004-096-0000. This property is owned by Jennifer McCauley and is zoned RA. A variance is requested to install new waste water force main in an easement that runs along the following properties: 24-004-079A, 24-004-081, 24-004-080.24-004-082, and 24-004-090.

The applicants are requesting two variances; the first variance is to the setbacks listed in Chapter 27-205.1 RA district quick for the pump station upgrades. The existing pump station is located in the building setback, based on the shape of the lot the 50 foot setbacks cross and there is no buildable area. The waste water pump station upgrades would be adjacent to the existing pump station. The second variance is the proposed new waste water force main is planned to be installed adjacent to the existing force main in the existing easement. The easement runs along the back of the above referenced tax parcels and is in an area of nolin soils. The nolin soils are also subject to the floodplain conservation regulations in the zoning ordinance. The zoning ordinance in Chapter 701.3.C.1 prohibits all new construction or development in the floodplain.

Attorney Mr. David Gaines from Miller, Kistler, and Campbell along with architect Mr. Ben Burns from HRG are present this evening to represent UAJA. Mr. Gaines gave some background of the pump station to the Board stating that it was first built in the 1980s and the growth of the area has overloaded the station. Mr. Gaines and Mr. Burns stated that in regards to the setback issue, no matter how the plan is drawn nothing will work due to the shape of the property. Mr. Gaines explained that the floodplain is not a FEMA floodplain but more of a soil issue. This will only be an expansion to the already existing pump station. Mr. Burns stated that the pump station is located in the lowest area and waste water flows into the building naturally. During the Act 53 update the area was examined to be moved but there is too much infrastructure around it to move locations. Ms. Susan Buda

asked if in lieu of a setback is it was possible to put in a landscape buffer. Mr. Burns stated that they are proposing to plant trees in the west end of the property and a privacy fence will be constructed along Scott Road. Mrs. Wetzel asked if a caveat could be put in effect that the privacy fence be maintained by UAJA, the Board and solicitor agreed. Mr. David Pribulka stated that he is present on behalf of the BOS in support of the Scott Road pump station updates.

Mr. Twomley entertained a motion. Mrs. Wetzel moved to grant both variances for the property located at 3895 Scott Road, tax parcel 24-004-096-0000 with a caveat that the vinyl privacy fencing be maintained and the planned landscape buffer is planted, Ms. Buda seconded the motion, and the motion passed unanimously.

2. ISLAMIC SOCIETY OF CENTRAL PA

Mr. Jeff Ressler stated that the property that is subject of this hearing is located at 3765 West College Ave, State College, PA, tax parcel 24-004-078C. The property is owned by the Islamic Society of Central PA and is zoned RA – rural agricultural and corridor overlay and is 10.16 acres. The applicants are requesting a variance to Chapter 27-205.1 district quick to permit the property to be used for a cemetery and place of assembly. The Township completed a comprehensive zoning ordinance update which culminated with the adoption of the updated ordinance in November of 2019. The zoning update made the minimum lot size for a cemetery and place of assembly to 50 acres. There has been multiple variance hearings for this property spanning from 2009-present. The court of common pleas of Centre County land use appeal granted a variance to use the property as religious center and burial place. At the time of that decision the zoning ordinance required maximum lot size of 5 acres. Since the court of common pleas decision the zoning ordinance including the RA regulation have been amended.

Attorney Mr. Terry Williams from Miller, Kistler, and Campbell representing the Islamic Society of Central PA asked Mr. Ressler for help with the timeline of events. Mr. Williams noted that this is an unusual case the ZHB is hearing. The land development planning process cannot be done until this hearing is done. The property owners acquired this property in 2000 and has been zoned RA since its purchase. Mr. Williams explained that the first variance request in 2009 was denied because of acreage. Mr. Ressler agreed with his statement.

The Islamic society appealed the decision and was denied again and went to the court of common pleas and the decision was appealed in 2010. This was to reverse the variance and local government may not enact interference with the ongoing practice of religion.

Mr. Williams stated that a Mr. Patrick Ward a Unitec engineer sent the Township a letter regarding the construction of cemetery and place of assembly to which Mr. Ressler responded back stating approval. Mr. Ressler stated that the Zoning amendments were done and a change made regarding the requirements for a place of assembly on less than 50 acres. Mr. Ressler stated that all the other uses were changed as well. This was adopted after the approval letter.

Mr. Jeff Bowman with Unitec engineering was hired by the Islamic society to develop a plan for a mosque and cemetery on the 10 acre property. Mr. Bowman explained that the plan will include a driveway, parking lot, and a 6000 square foot building. This is just a concept plan as nothing has been fully started yet as work stopped after the denial they received. Mr. Williams stated that this is an unusual case as there is no final land development plan only a concept. This property was purchased 21 years and the hardship is brought on by the Township and their updated regulations. Mr. Williams stated that this is a fast developing area. The Russian Orthodox Church is located up the street and it doesn't change the characteristics of the community. Mr. Williams stated that the courts ruled one time that prohibiting this is a violation of Rluipa.

Mr. Twomley stated that he was a part of the previous variance request and that the zoning updates were no secret he believes that the Township has every right to change ordinances. The applicant had many years to submit a plan and knew the ordinances were changed. Mrs. Wetzel asked if the ordinances were the same when the property was purchased in 2000. Mr. Ressler stated that he would have to look at the ordinances in 2000. The Board continued to discuss the ordinance and ordinance changes. Mr. Twomley opened citizen's input. Ms. Kayla Sipes took the stand and stated that she is the neighboring property at 3745 W College Ave. Ms. Sipes stated that she has concerns about increased traffic near her home. She has read that 400+ people can attend Islamic burials and gatherings. Her family owns a custom farming business and traffic is a daily concern for them at their location. Ms. Sipes stated that another issue she would like to be

taken in to consideration that this is a floodplain area and what a grave site would do to the flood plain.

Mr. Robert McCauley is another neighboring property owner located at 3795 W. College Ave. Mr. McCauley asked the Board if any members were affiliated with the Islamic society. Ms. Buda stated that if anyone was affiliated that would have been addressed at the beginning of the meeting. Mr. McCauley stated that when purchasing his property he took into careful consideration where he was purchasing and what would be allowed in and around him. He currently enjoys the beauty of where he lives and the things around him and feels the development of this location with a place of assembly would be unsightly. Mr. McCauley noted that according to the watershed overlay and 100 year flood plain more than half of this property should not be touched. Mr. McCauley stated that he has spoken with an attorney out of Harrisburg and was informed that according to PA statue that no cemetery can be built over a watershed.

The Board excused itself for executive session.

Ms. Buda stated that she appreciates the citizen's input, it really puts things into perspective. However, the plan will be looked at in more detail down the line by the Planning Commission and BOS.

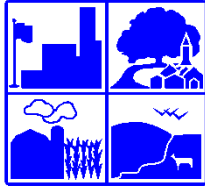
Mr. Twomley called for a motion. Mrs. Wetzel moved to grant the variance for the property located at 3765 West College Ave, State College, PA, tax parcel 24-004-078C for a permitted use of a place of assembly, Mr. Michael MacNeely seconded the motion, and the motion was passed 4 to 1.

XI. CALENDAR ITEMS

XII. ADJOURNMENT

The Zoning Hearing Board meeting was adjourned at 8:30 pm.

Swamy Anantheswaren, Secretary
For the Zoning Hearing Board



TOWNSHIP OF FERGUSON

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July 28, 2021

VIA EMAIL

Legal Advertising Department
CENTRE DAILY TIMES
Post Office Box 89
State College, Pennsylvania 16804

Please insert the following legal notice so that it appears in the Legal Section of the Centre Daily Times on **Tuesday, August 10, 2021 and Tuesday August 17, 2021**

LEGAL NOTICE

The Ferguson Township Zoning Hearing Board will hold a Public Hearing at the Ferguson Township Municipal Building, 3147 Research Drive, State College, Pennsylvania on Tuesday August 24, 2021 at 7:00 PM to hear the following variance requests:

The variance request of the Mike Patel, Rita's Water Ice 1609 North Atherton Street, State College, PA. 16803, Tax Parcel 24-010-017. The applicants is requesting variances to Chapter 27-209.1 and Chapter 27-209.1.E to permit two awnings to extend into the front and side yard setbacks. The property is located in the C-General Commercial Zoning District.

The public may attend the meeting in-person in the Main Meeting Room of the Ferguson Township Municipal Building

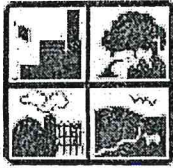
For the Ferguson Township Zoning Hearing Board
Jeffrey S. Ressler, Zoning Administrator

The Proof of Publication Notice and the invoice related to this advertisement should be sent to the attention of Ms. Traci Miller, the Township Accountant. Please call me if you should have questions or if you will be unable to process this request.

Sincerely,

Jeffrey S. Ressler
Zoning Administrator

c: Legal Ad file



Township of

RECEIVED JUL 06 2021

Planning & Zoning Department

Pennsylvania

**Ferguson Township, Centre County, Pa.
Application for Zoning Variance/Appeal Hearing**

Application for a Hearing must be filed in the name of the owner of record or in the name of the holder of an option or a contract to purchase, or in the name of the lessee if authorized under a lease.

The application must be completed in full and the following must accompany the application:

1. Thirteen (13) copies of the application.
2. Thirteen (13) copies of a diagram or site plan (as outlined on page 3).
3. For a Variance Hearing a non-refundable filing fee of \$300.00 (make check payable to Ferguson Township).
 - For an Appeal Hearing a filing fee of \$500.00 (make check payable to Ferguson Township). The Appeal Hearing fee is refundable if the applicant prevails in the appeal of a notice of violation.
 - If applying for both a Variance Hearing and an Appeal Hearing both the Variance fee of \$300.00 and the Appeal fee of \$500.00 must be paid to the Township.
4. A copy of the applicant's deed or other instrument showing authority to file this application must be attached.
 - If the instrument attached does not contain a legal description, a legal description must be provided.

All material should be submitted to the Ferguson Township Zoning Office no later than 5:00 PM on the fourth Monday of the month. All incomplete applications will not be processed.

Email MEHUL9703@gmail.com / 317-979-8103

ENTRY OF APPEARANCE

Name mike patel

Address 1609 North Atherton St, STATE COLLEGE, PA, 16801

I am appearing on my own behalf (Check if this is true.)

I am representing _____

Please send me notice at the above address of any final decisions in this matter.

WAIVER OF STENOGRAPHIC RECORD

I agree to waive the requirements of Section 908(7) of the Pennsylvania Municipalities Planning Code which requires that a stenographic record of the proceedings be made, and consent that a record of the proceedings be prepared from a tape recording of the hearing and the recording secretary's minutes.

Applicant's Signature M. R. Patel

Date 06/15/21

The undersigned hereby applies to the Ferguson Township Zoning Hearing Board for a hearing under the provisions of the Ferguson Township Zoning Ordinance affecting the following premises in the manner herein described.

Applicant RZTA'S WATER ICE

Address 1609 N Atherton ST, STATE COLLEGE, PA 16801

Phone FAX _____

Owner MIKE PATEL

Address 107 WINDYBUSH RD, STATE COLLEGE, PA 16801

Phone FAX _____

1. Location of premises _____

2. Centre County Tax Map Parcel Number _____

3. Present zoning C General Commercial

4. How long has the applicant held an interest in the property? _____

5. Present use of the premises _____

6. Proposed use of the premises ICE CREAM STORE

7. Explain extent of proposed alteration(s), if any: BY BRAND RECOVERY

we have to put awning, our customers would be more likely to come to our business in all different types of weather if we had an awning. It will protect people from the heat, sun and rain. It will also protect our employees from the sun while working, and the POS system. Our business works through a service window, meaning it's exposed to all different types of weather.

8. Describe all existing structures, including type size and height: Office building free standing
45x38 x 9 ft

9. Has the property been involved in previous zoning hearing(s)? no If so, describe date of hearing, nature of hearing and outcome of hearing:

10. For new construction or alterations:
a) Have plans been submitted to the Zoning Officer? yes
b) Has he/she reviewed, approved, and signed the plans? no
c) Has he/she issued a permit? no

11. For a variance hearing, describe the provisions or regulations of the Ferguson Township Zoning Ordinance under which application for a variance is sought:
27 - 209.1 Awnings will extend into the
27 - 709.1.E Front and Side Setbacks
Front Setback is 50' Side setback 15'

12. For an appeal hearing, describe the alleged misinterpreted or misapplied provision of the ordinance which will be relieved by granting this appeal:

13. A variance will be granted only upon the showing of an unnecessary hardship meeting all of the following criteria:
a) The unnecessary hardship is caused by unique physical circumstances in the size, shape or topography of the lot.
b) Because of the unnecessary hardship so caused, the lot cannot be developed in conformity with the Zoning Ordinance.
c) The unnecessary hardship was not created by the applicant. a) Key map showing the generalized location of the property.
d) The variance, if granted, would not alter the essential character of the neighborhood, impair the use or development of adjacent property or be detrimental to the public welfare.
e) The variance would be the minimum necessary to afford relief and would be the least possible modification of the Zoning Ordinance.

Describe hardship, as listed above, which will be relieved by granting this variance:

A, E

14. Attach a diagram or site plan showing the following:

- a) Key map showing the generalized location of the property.
- b) North point.
- c) Name and address of all abutting property owners.
- d) Total tract boundaries of the property showing approximate distances and a statement of total acreage of the tract.
- e) All existing streets including streets of record (recorded but not constructed) on or abutting the tract including names and right-of-ways.
- f) If relevant to the application, existing sewer lines, water lines, fire hydrants, utility lines, culverts, bridges, railroads, watercourses, and easements.
- g) All existing buildings or other structures and approximate location of all tree masses.

15. List all abutting property owners. Include full name, address, and telephone numbers

Scott Lucchesi

1609 North Avonorton, State College

814-880-4990

FOR STAFF USE ONLY:

- Plans submitted
- Advertised
- Posted
- Fee Paid

Revised
09/14/2017

Ritas
1609 N. Atherton Street

5/27/21

Logo On Awning



Front Awning
Size
13'4" wide
2' projection
2' drop
6" rigid curtain

Logo 30 1/2" high x 35" wide

7 Sq.feet

design by Terry Phillips
Mid~State Awning Inc
814-355-8979

Ritas
1609 N. Atherton Street

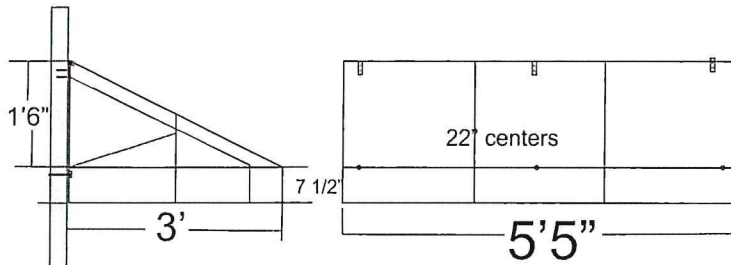
6/4/21

SIDE AWNING

Size
5'5" wide
3' projection
1'6" drop
7 1/2" rigid curtain

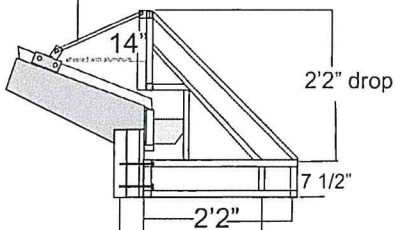


FRONT AWNING



FRONT AWNING

(4) angle support braces
clamped to new standing seam roof panels
5/8" rod and fillings

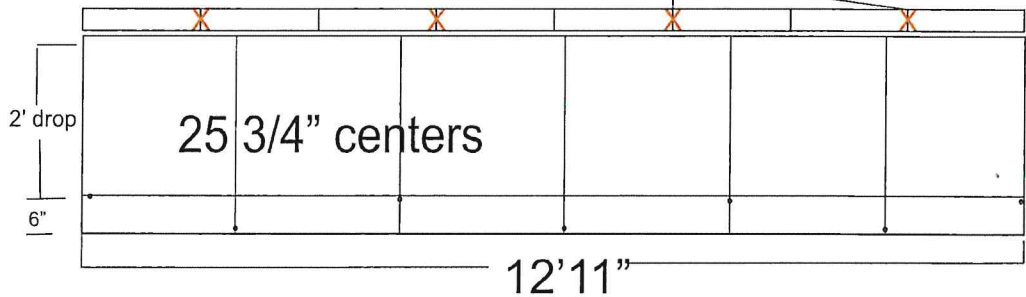


scale 1"

7'8" to bottom

Front Awning
Size
12'11" wide
2'2" projection
2'2" drop
7 1/2" rigid curtain

(4)
roof supports



- * Aluminum Welded Frames
1" sq. x .125 wall
- * Anchors (side) top 2 hole Z
mounting Brackets with 5/16" x
3" lags 36" max spacing
bottom 5/16" x 6" lags 32" max
- * Front standing seam clamps
40" max spacing with Bottom
anchors 5/16" x 6" lags 27" centers max
- * Cooley Vinyl Fabric 16 oz NFPA 701
- * 40psf snow load 15psf uplift

Ferguson Township
3147 Research Drive
State College, PA 16801
814-238-4651
814-238-3454 (fax)
www.twp.ferguson.pa.us

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Receipt No. 00018684

06/11/2021 08:41 AM

Mehulbhai Patel

01 Zoning Var He
aring/Ritas

300.00

Check # 1006

Receipt Total

300.00

Payment Total

300.00

Thank you!



TOWNSHIP OF FERGUSON

3147 Research Drive • State College, Pennsylvania 16801
Telephone: 814-238-4651 • Fax: 814-238-3454
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TO: ALL ZONING HEARING BOARD MEMBERS
JEFFREY STOVER, SOLICITOR

FROM: Summer Brown, Administrative Assistant

DATE: July 27, 2021

SUBJECT: ZONING HEARING BOARD MEETING

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The public may attend the meeting in-person.

Thank you.

Copy: Office File