

FERGUSON TOWNSHIP ZONING HEARING BOARD
REGULAR MEETING
TUESDAY, JULY 17, 2018
7:00 PM

I. ATTENDENCE

The Zoning Hearing Board held its regular meeting on Tuesday, July 17, 2018 at the Ferguson Township Municipal Building. In attendance were:

Board:

Michael Twomley—Chairman
Michael MacNeely—Secretary
Swamy Anantheswaran
Susan Buda
Irene Miller, absent
Marc Friedenberg—Alternate, absent

Staff:

Jeffery Ressler, Zoning Administrator
Jeff Stover, ZHB Solicitor

Others in attendance included: Marcella Bell, Recording Secretary; Ray Stolinas, Planning & Zoning Director; David Pribulka, Township Manager; David Gaines, Miller Kistler & Campbell; Rhonda Johannesen, HFL Variance Request; Kevin Hagopian, HFL Variance Request; John Sepp, PennTerra Engineering; Robert Lingenfelter, Sound Technology, Inc Variance Request; Kurt Ferster, Sound Technology, Inc Variance Request; Ted Sutton, Sound Technology, Inc Variance Request; Michele Crawl, Discovery Space Variance; Mark Torretti, PennTerra Engineering; Eric Smith, HFL Variance Request; Patricia Best, Discovery Space Variance; Angie Volz, HFL Variance Request; and Anna Childs, Discovery Space Variance

II. CITIZENS' INPUT

There was no citizens' input.

III. SOUND TECHNOLOGY INC.—VARIANCE REQUEST

Mr. Ressler stated that the property that is the subject of this hearing is located at 401 Science Park Road, State College, tax parcel 24-433-027-0000. The property is owned by Sound Technology, Inc. (STI). The applicants are proposing to place temporary modular office units on the site for a period of time not to exceed five years. The applicants are requesting a variance to Chapter 27-204 Use regulations, T.(1)., to be permitted to place modular units on the site as a temporary use. The applicants are also requesting a variance from Chapter 27-1003 Land Development Plan Review, to not be required to complete a land development plan for the installation of the temporary office buildings. The applicants would complete a Minor Alteration Plan in place of the land development plan. The property is located in the IRD Zoning District. There have been no other variances for this property.

Attorney David Gaines of Miller, Kistler & Campbell introduced himself as the representative for Sound Technology, Inc. Attorney Gaines provided a brief overview of what the applicant is proposing. Sound Technology is undertaking a significant project in the coming months, possibly years. The temporary modular units would be joined cohesively to become a break room for the STI employees for three to five years. He then introduced Mr. Kurt Ferster, manufacturing manager of STI.

Mr. Ferster explained that STI is in the medical industry, producing ultrasound industry equipment, specifically wands and probes. He went on to explain that since 1987, STI had been housed in five separate buildings in State College until 2012, when the company consolidated into one building, the old Jostens building on Science Park Road. STI employs over 150 employees and operates in two shifts. Mr. Ferster spoke to the exhibits. Exhibit 1 on page 2 shows the area where the modular buildings would be placed. Page 3 shows the same area, except from the west side of the STI building. Exhibit 2 is the deed for the STI building.

Mr. Ferster stated that since STI has consolidated into one building, the space has been used very efficiently, however, STI will be starting the project of moving significant business from a sister company out of state. STI would be moving the existing break room into the temporary modular units to create room for the new project. The transfer of business into this space would include six product lines to manufacture the scanning and transducer components of the ultrasound equipment and through efficiency gains, STI would reduce the number of manufacturing lines to two after a number of years. STI does not want to build an addition onto the existing building because in a few years, the extra space will not be needed. The breakroom is also used as a multi-purpose room, since there are a large number of employees and they work long shifts. The breakroom includes exercise equipment as well as a conference room-type setting for quarterly meetings.

Mr. Ferster referred to Exhibit 3 on page 14 and 15. STI compared two different contractors, which is what Exhibit 3 refers to. STI will most likely contract the temporary modular units to Modular Genius for construction. Mr. Ferster stated that the hardship that STI is facing is that there is no middle ground for them to manufacture the scanners and transducers with the space they are in now. They are requesting a variance because STI cannot do anything to help their business outside of the building.

There was a lengthy discussion regarding the length of time STI is requesting to use the temporary modular units. Mr. Ferster stated that the transfer of business is fairly complicated due to the new technology, which causes a learning curve. Many of the Board members were concerned about the time frame of the project. They felt that five years was not temporary and worried that they would be setting a precedence if they granted this type of variance for that amount of time.

In response to a question from Mr. Twomley, Mr. Ressler stated that the site has sufficient parking, however, the applicant will need to meet the requirements of the Stormwater Ordinance. In response to a question from Mr. MacNeely, Attorney Gaines stated that if STI did not meet the deadline, they would have to come back and request another variance. There was a consensus from the applicants and the Board members that a two year time frame was a reasonable start so the applicants could better gauge how much time would be needed to complete the project after two years.

The Zoning Hearing Board determined that there was not a need for the variance request under Chapter-204 Use Regulations, T.(1).

A motion was made by Ms. Buda and seconded by Mr. Anantheswaran to grant Sound Technology, Inc. at 401 Science Park Road a variance to Chapter 27-1003 to submit a minor alteration plan instead of a land development plan conditioned upon the posting of surety for the removal of the building, the building must be removed two years from the date of occupancy, the stormwater controls on the site must be functioning, the design for stormwater management must be approved by the Township Engineer, and the turf field and parking lot must be repaired to its original conditions. The motion carried 4-0.

IV. HFL CORPORATION – VARIANCE REQUEST

Mr. Ressler stated that the properties that are the subject of this hearing are located at 102, 114, and 120 West Cherry Lane in State College, tax parcels 24-015-038, 057, and 058. The properties are owned by HFL Corporation and are located in the C-General Commercial District. The properties are currently used for single-family dwellings. The applicants are proposing to consolidate the lots, demolish the single-family dwellings, and construct a three-story apartment and office building through the land development plan process. As part of the approval process, parking is required to be constructed based on the gross floor area of the office building and apartments. The applicants are requesting a variance to Chapter 27-809 Parking to exclude certain areas in the basement from the square footage calculations for the building. The area for which the exemption is being requested includes the exercise room, library, and laundry rooms, which are not open to the public and are only for the use by the tenants of the building. The parking area for these areas would be calculated at a ratio of 1 space per 250 square feet of floor area. There was a previous zoning appeal for this property in 2017.

Mr. Sepp of PennTerra Engineering introduced himself as the representative of the West Cherry Lane variance request. He explained that the applicants are proposing a three story building with a basement. The first floor will be an office and the second and third floors will be apartment units. There will be 18 multi-family units in total with a combination of 1, 2, and 3 bedroom units. The basement will be used for storage, laundry, and an exercise room. There is also one office space in the basement and the proposal will include parking for that office. If the applicants did not request a variance, the proposal would have to include 30 parking space, which would not be used since the basement spaces will be used by the tenants of the building.

In response to a question from Mr. MacNeely, Mr. Sepp explained that the 30 additional spaces would be for the square footage of the basement. There are already 13 extra spaces available after the required number of parking spaces based on the Zoning Ordinance, so the applicant would only need a variance to eliminate the 17 required spaces.

Mr. Twomley opened the floor up for citizens' comments. Mr. Kevin Hagopian, Ferguson Township resident, stated that zoning is very much about the best use of land for a community and balancing the economics of individual property ownership, with the larger values of the community. He explained that this variance is not warranted simply because an applicant wants to use ground space more profitably.

He stated that the proposed building seems to be student-rental driven and will have a strategic impact on a neighborhood that already has considerable amounts of student rentals. There are several large-scale student rental developments in the area that are completed or are nearing completion in the near future, including HFL's own project, the Metropolitan in State College Borough. Others are in various stages of approval for development. Penn State has also opened new replacement units on campus, which has added hundreds of new student units at a time when Penn State's enrollment numbers are stagnant. Mr. Hagopian stated that an experienced realtor for this area confirmed that this area is not in shortage of student rental housing. He went on to say that this variance seems designed to increase the density of renters in this neighborhood.

In response to a question from Mr. Anantheswaran, Mr. Sepp stated that this project is a Pennsylvania Housing Finance Agency (PFHA) project—a tax credit project for workforce housing; therefore, it is not a student housing project.

Mr. Hagopian went on to say that this variance seems designed to increase the revenue stream for HFL at the expense of community stability and of the property values of homeowners in this neighborhood now and in the future. He urges the Board to reject this variance. He explained that this variance would set a negative precedence in this particular neighborhood.

Ms. Rhonda Johannesen, Ferguson Township resident, stated that the applicant is asking the Zoning Hearing Board to go against the Zoning Ordinance regulations regarding parking. She stated that this area is not on Science Park road—it is in a neighborhood that does not have on-street parking. Ms. Johannesen stated that the Township should believe in the integrity of the Zoning Ordinance and should follow what is written. She explained that she has a development background and that the developer has created its own hardship by the size of the proposed building.

Ms. Buda stated that she agrees that the Township should uphold its own Zoning Ordinance, however, the Zoning Ordinance regulations are written to cover a broad variety of situations, and since every situation is different, the Zoning Ordinance may not cover a specific situation, which is why the Zoning Hearing Board exists.

In response to a question from Mr. Anantheswaran, Ms. Johannesen stated that yes, she would be satisfied if the developer proposed the required number of parking spaces for the basement area of the proposed building. If those parking spaces are not built, the guests of the apartment residents and customers will end up parking elsewhere in the neighborhood. Mr. Anantheswaran stated that the developer actually has 13 more parking spaces than they need due to the basement area square footage. Ms. Johannesen stated that the common spaces are attractive for the residents living there to invite guests over.

In response to a question from Ms. Buda, Mr. Sepp stated that the allotted parking in the proposed plan accounts for guests of the apartment residents per the Township Zoning and Subdivision and Land Development Ordinance.

Ms. Angie Volz, Ferguson Township resident, stated that the common spaces are an attractive feature of the proposed building, which means guests will visit the building and use those common spaces. She went on to say that traffic and parking in the neighborhood is already bad enough, especially with the diverters put into place a few years ago.

Mr. Eric Smith, Ferguson Township resident, stated that since one of the five criteria for granting a variance is that the hardship is not created by the applicant, maybe the developer should consider making the building footprint smaller so that there can be enough parking spaces for the entire square footage. Mr. Twomley stated that there are still 13 parking spaces over what the Zoning Ordinance requires and a good reason not to not construct the other 17 parking spaces is to reduce the amount of impervious coverage which would help stormwater runoff.

In response to a question from Mr. MacNeely, Mr. Ressler explained that a traffic impact study (TIS) is triggered by a certain number of trips per day. Mr. Sepp further clarified that if 75 or more trips are generated in the peak hour, AM or PM, a traffic impact study would be required, per the Township's regulations. At this time HFL has not counted traffic to determine if a TIS is warranted.

A motion was made by Mr. MacNeely and seconded by Ms. Buda to grant HFL Corporation at 102, 114, and 120 West Cherry Lane a variance to Chapter 27-809 to allow parking requirements to exclude certain areas in the basement from the square footage calculations for the building to result in a total of 17 less parking spaces than the ordinance requires based upon the plans that will be submitted for the proposed building. The motion carried 4-0.

V. HFL CORPORATION — VARIANCE REQUEST

Mr. Ressler stated that the property that is the subject of this hearing is located at 1224 North Atherton Street, State College, tax parcel 24-014-005-0000. The property owner is HFL Corporation and is located in the C- General Commercial Zoning District. There is an area of FEMA mapped flood plain that crosses the property. The applicants are requesting a variance to the flood plain conservation regulations of Chapter 27-801.(I) and Chapter 27-801.C(1) to permit grading and the construction of a parking lot in the flood plain. The applicants are requesting variances to the off-street parking regulations, Chapter 27-809.A(5) and Chapter 27-809.B(1) to not be required to pave the parking spaces and to not be required to meet the dimensional requirements for parking spaces. There have not been any other variances for this property.

Ms. Michele Crowl introduced herself as a representative of Discovery Space and stated that Discovery Space is a children's science center that recently moved to this current location last October. She explained that it has become a pattern that the parking lot for Discovery Space fills up rather quickly four to eight times a month. They are worried about the safety of families and children because there is no overflow parking and they have to cross Atherton Street to get to the Discovery Center.

Mr. Sepp provided the Zoning Hearing Board with a few exhibits. Exhibit A1 shows the minor alteration plan. Per the Township regulations, the Discovery Center is required

to have 25 parking spaces, but there are already 48 on the site. A variance is not being requested for more parking, however, there is a demand for more parking than what the Discovery Center has and there is no place for overflow parking. Mr. Sepp explained that the only place on the site to expand the parking lot is into the hill side. The parking lot would be gravel and not concrete or asphalt. Exhibit 2 shows the survey of the property. Mr. Sepp explained that the expansion of the parking lot into the hill side will actually expand the flood plain. The existing parking lot is on the edge of the flood plain and the flood plain would extend into the embankment area if the parking lot was constructed. The parking lot would not obstruct any flow. The parking lot would not make the flood plain worse, but it also would not make it any better. Mr. Sepp showed Exhibit 3, which shows pictures of the site as well as the ditch and the slope of the embankment.

Mr. Pribulka introduced himself and stated that he is here on behalf of the Board of Supervisors. The Board of Supervisors opposes this variance based on the construction proposed in the flood plain. At the June 18 meeting, the Board was not provided with a flood plain analysis and the Board was of the opinion that it would still opposed this variance regardless of the analysis. The Board of Supervisors discourages the use of gravel parking lots because the flood plain could erode the parking area as well.

There was a lengthy discussion regarding the three variance requests and how the applicant could mitigate the impact to the flood plain. The Zoning Hearing Board would like to see an analysis on the flood plain.

A motion was made by Mr. Anantheswaran and seconded by Ms. Buda to continue this hearing until the August 28, 2018 hearing pending more information. The motion carried 4-0.

VI. APPROVAL OF THE MEETING MINUTES FROM THE JUNE 26, 2018 REGULAR MEETING

A motion was made by Mr. MacNeely and seconded by Ms. Buda to approve the June 26, 2018 Regular Zoning Hearing Board meeting minutes. The motion carried 4-0.

VII. ADJOURNMENT

With no further business to come before the Zoning Hearing Board the July 17, 2018 meeting adjourned at 9:30 p.m.

RESPECTFULLY SUBMITTED,



Michael MacNeely, Secretary
For the Zoning Hearing Board

Date approved by the Board: 8/28/18