

FERGUSON TOWNSHIP ZONING HEARING BOARD

Regular Meeting

Tuesday, February 27, 2018

7:00 pm

I. ATTENDENCE

The Zoning Hearing Board held its regular meeting on Tuesday, February 27, 2018 at the Ferguson Township Municipal Building. In attendance were:

Board:

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

Staff:

Jeffery Ressler, Zoning Administrator
Terry Williams, ZHB Solicitor (for Jeff Stover)

Others in attendance included: Marcella Bell, Recording Secretary; Ray Stolas, Planning & Zoning Director; Marc Lemberg, Accuweather, Inc.; Matthew Patch, Accuweather, Inc.; Randy Brachbill, Accuweather, Inc.; Al Drobka, Accuweather, Inc. and Edisto Partners, L.P.; David Pike, Accuweather, Inc.; Doug Loviscky, Edisto Partners, L.P., Barry Myers, Accuweather, Inc.; and Jerry and Marjorie Shore, Ferguson Township residents

II. EDISTO PARTNERS, L.P. – REQUEST FOR VARIANCE

Mr. Ressler stated that the property that is the subject of this hearing is located at 1500 West College Avenue, tax parcel 24-002A-177-0000 and is owned by Edisto Partners, L.P. The property is located in the Terraced Streetscape District (TSD) and is used as a business office. The applicants are proposing to enclose an existing porch to make an additional 88 square feet of office space. The Zoning Ordinance in Chapter 27-1003.E(3) states that a site or land development plan is required for all commercial and industrial building expansions. The applicants are requesting a variance to Chapter 27-1003.E(3) to not be required to complete a land development plan. There have been no other variances for this property.

Al Drobka and Douglas Loviscky stood to be sworn in.

Mr. Drobka stated that the office building in question is used for office space and is a stone structure with a small porch located on the east side of the building. The porch is raised two feet off of the ground and there are two columns exposed. The applicant would like to enclose the 88 square foot porch with a minor alteration plan instead of a land development plan. There is no added parking and there will not be any more employees with this addition. He explained that the requirements for a land development plan are more than what is needed for this proposal.

Mr. Ressler stated that the Township is not opposed to allowing the applicant to submit a minor alteration plan instead of a land development plan. In response to a question from Ms. Buda, Mr. Ressler explained that a land development plan requires engineering work, landscaping, a review from the Planning Commission,

and approval from the Board of Supervisors. A minor alteration plan changes the existing site plan and is reviewed and approved at a staff level. A minor alteration plan takes much less time and money. Mr. Ressler stated that there is no impervious coverage being added, the footprint of the building does not change, and there would be no added parking.

In response to a question from Ms. Miller, Mr. Lovisky stated that the enclosed porch would become a conference room for employees.

A motion was made by Mr. Anatheswaran and seconded by Ms. Buda to grant the variance to Chapter 27-1003.E(3) to not require Edisto Partners L.P. to submit a land development plan for the enclosure of the 88 square foot porch. The motion carried 4-0.

III. SCIENCE PARK ROAD ASSOCIATES, L.P. AND ACCUWEATHER, INC REQUEST FOR VARAINCE.

Mr. Ressler stated that the property that is the subject of this hearing is located at 385 Science Park Road, tax parcel 24-004-021R-0000. The property is owned by Science Park Road Associates, L.P. and is located in the Industrial Research District (IRD). The applicants are proposing a parking lot expansion and are in the process of completing a land development plan. One of the requirements of the land development plan is the installation of landscaping in the parking lot islands and perimeter buffer yard plantings as required by the Zoning Ordinance. The applicants are requesting a variance to Chapter 27-807.15 (Flexible Buffer Yard) to not be required to install certain canopy trees and understory trees as required by the Zoning Ordinance. The applicants are also requesting a variance to Chapter 27-807.16.B to not be required to install a minimum of one canopy tree in each parking lot island that abuts an aisle or driveway.

Chapter 27-807.16.B states that planting areas shall be installed at the end of all parking bays abutting an aisle or driveway. The planting areas shall be bordered by a curb four inches high whenever it abuts a space or aisle, and shall be at least nine feet wide and extend the length of the parking space and/or bay. Each planting area shall be planting with a combination of suitable ground covers and/or grass and a minimum of one canopy tree.

There have been several other variances granted for the property including a sign variance, variance from the requirement to complete a land development plan for the construction of office space under an existing alcove, and a variance for a wall sign replacement.

Mr. Anatheswaran stated that he is very good friends with Mr. Matthew Patch and feels that it would be necessary to recuse himself from the discussion. Attorney Williams stated that unless Mr. Anatheswaran has a direct financial interest or gain in the tenant or building, he does not have to recuse himself.

Mr. Patch introduced himself as Associate General Counsel for Accuweather. Mr. Patch called his first witness, Mr. Barry Myers, CEO of Accuweather, Inc. Mr. Myers stated that Accuweather enjoys being a part of and a major contributor to

the Ferguson Township community. Mr. Myers provided a brief history of the Accuweather building and the people that have visited the building. He explained that because Accuweather is visited by so many different types of people from school children to world leaders, a clear view of the building from the street is necessary for Accuweather's corporate recognition, corporate image, easy identification for tour or school groups, and the safety along Science Park Road. Because of these reasons and unique aspects of the land, it's a hardship on the operation of Accuweather's business.

Mr. Myers stated that the Zoning Hearing Board has previously granted three variances for Accuweather on this property, two of them specifically because of the aforementioned reasons. He explained that because Accuweather is expanding their parking lot, the Zoning Ordinance requires them to plant 20 and 60 foot trees long the property lot lines or in the parking islands. These trees would totally obscure the building and create a safety hazard along Science Park Road. The ease of view is necessary so that travelers on Science Park Road can see the building and safely make a right turn into the driveway. Additionally, because of the nature of the vegetation, it would partially or fully obscure many or all of the satellite dish ground stations that are necessary for vital data collection.

The required trees would cause the company to not be able to fully operate if planted. The Accuweather building sits on an 'L' shaped lot and is set back 500 feet from Science Park Road, directly behind the Disciplemakers building. The neighbors to the north and south of the Accuweather building are large commercial buildings. To the east of the Accuweather building is an existing forested area. Mr. Myers stated that all of the neighboring properties support Accuweather's variance request.

He went on to explain that there's also a safety factor in the hardship. The Accuweather building is set back 500 feet from the road, as well as the signs for Accuweather. There are numerous driveways off of Science Park Road, and the speed of Science Park Road can be pretty fast when trying to locate a driveway for a business. There are also limited views of the building for drivers from the street due to the layout of the lot, the existing land scape, and the neighboring buildings. Mr. Myers referred to photos that show the site distance views at various points on the property that were provided to the Zoning Hearing Board. Photograph 1, which was taken while standing at the west front part of the building, shows three large satellite dishes in front of Accuweather. Photograph 2 shows the same satellites, but the picture was taken from the area just off to the right of where the sinkhole on the property begins. Photograph 3 also shows the same satellites, but the photo is taken closer to Science Park Road. The sinkhole on the property is shown in photo three. Photograph 4 shows two other large satellite dishes from the north side of the property. Photograph 5 shows the same two large satellite dishes, just a little closer to the satellites.

Mr. Myers spoke to the concern about planting canopy and understories trees on the property as those types of trees would obscure the satellite signals needed to send and receive data to and from Accuweather. The sinkhole on the property already limits the areas in which those types of trees can be planted. On the south part of the property, there is a 20-foot utility easement that would prohibit canopy and understory trees from being planted there. Mr. Myers explained that within the Sweetland Engineering drawings provided to the Zoning Hearing Board on the north side of the

property, there are proposed trees that would actually interfere with a number of satellite dishes on the property. The applicant is requesting to remove those proposed trees from the plan. The applicant is requesting a variance to eliminate all of the required canopy and understory trees as a result of the parking lot expansion. Mr. Myers stated that the variance request is the most minimal request and conforms to the spirit of the Buffer Yard Ordinance and does not burden any of the neighbors nor the public interest.

Mr. Patch then called his next witness, Mr. David Pike of Sweetland Engineering, the project manager. Mr. Pike referred to the first exhibit, the set of plans that was provided to the Zoning Hearing Board. The Zoning Hearing Board gathered around a table with Mr. Pike, Mr. Myers, Mr. Patch, Mr. Drobka, Mr. Brachbill, and Mr. Ressler to review the plans that Sweetland Engineering prepared. After Mr. Pike reviewed each of the plan pages, the discussion centered around the kinds of plantings that could be planted instead of trees. The Zoning Hearing Board would like Sweetland Engineering to either use the Township approved plant list, or work with the Township Arborist on acceptable plants for the south side of the property and the required parking islands.

A motion was made by Ms. Buda and seconded by Ms. Miller to grant a variance for the Accuweather property located at 385 Science Park Road from Chapter 27-807.15 and Chapter 27-807.16.B to not install canopy and understory trees on any portion of the property. On the east side of the property, the Zoning Hearing Board feels that the existing forested area is acceptable as a buffer yard. On the north and west sides of the property, the trees would block vital satellite dishes. The trees would also interfere with utility lines on the 20-foot easement on the southern portion of the property. The Zoning Hearing Board grants the applicant flexibility to plant ornamental grasses and shrubs instead of the required canopy and understory trees. The applicant must choose plants from the Township approved plant list or work with the Township Arborist to select appropriate plants. The motion carried 4-0.

IV. CHARLES LOESCH—REQUEST FOR A VARIANCE

Mr. Ressler stated that the property that is the subject of this hearing is located at 2542-2544 Circleville Road, tax parcel 24-003A-001. The property is owned by Charles Loesch and is zoned R-1, Single-Family Residential District. The lot size is 17,424 square feet and the property currently contains a two-unit rental and a garage/shop. The current use of the property with a two-unit dwelling is non-conforming to the R-1 Zoning District regulations. The applicant is proposing to construct an additional single-family dwelling on the property.

The following is list of variances that would need to be granted for the addition of an additional single-family dwelling on the property:

- Variance to Chapter 27-205.1. D which reads as follows: One dwelling unit per lot in the Single-Family Residential District and the Suburban Single-family Residential Zoning District.
- Variance to Chapter 27-401, table 401 minimum lot size. The minimum lot size is 10,000 square foot per single-family dwelling. The lot size is not large enough for a second single-family dwelling.

- Variance to Chapter 27-903.A, which reads as follows: The existing non-conforming use or structure shall not be changed to a different non-conforming use.
- Variance to Chapter 27-903.B.2 which reads as follows: No such nonconforming use or structure shall be altered or extended except if such complies with the following criteria and standards: B. Provided such does not constitute the addition of a new nonconforming use or structure. The addition of a new single-family dwelling would constitute a new non-conforming use and structure on the property.

There have been no other variance requests for the property.

Mr. Jules Loesch introduced himself and stated that he is representing his uncle, Charles Loesch. Mr. Loesch stated that on the property is a two-unit rental as well as an old deteriorating shop. He explained that he has received several complaints from residents about the shop, as it is falling apart and is an eyesore to the community. He stated that he and his family are tired of putting money into fixing the shop because it is cost prohibitive. They would like to tear down the old shop and construct a single-family dwelling unit.

In response to a question from Mr. Twomley, Mr. Loesch stated that the hardship is really a community hardship. He and his family would like to remove the eyesore and create something beneficial for the community and for themselves. Mr. Twomley reminded Mr. Loesch that financial issues are not a part of a hardship. Attorney Williams reviewed the 5 criteria for granting a variance.

In response to a question from Ms. Miller, Mr. Loesch stated that if the variance is granted and the single-family home is constructed, the existing duplex would be updated as well. There was a brief discussion regarding the applicant's ability to subdivide the lot into two lots so they could build the additional single-family home; however, it was determined that the existing lot size is not big enough to subdivide into two lots and still be conforming. The applicant would have to request a variance to subdivide the lot smaller than what is required, a variance to build a single-family home on a smaller lot size, and a variance for smaller setbacks. In either case, the lot would still be non-conforming.

Mr. Jerry Shore spoke to Mr. Loesch's variance request and stated that he supports the variance request.

A motion was made by Ms. Buda and seconded by Ms. Miller to grant the variances for 2542-2544 Circleville Road from Chapters 27-205.1.D, 27-401, 27-903.A, and 27-903.B.2 to construct a new single-family dwelling. The motion failed 1-3.

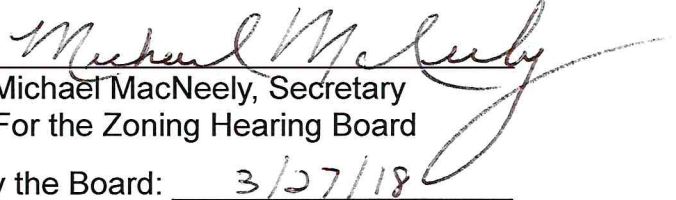
V. APPROVAL OF THE MEETING MINUTES FROM THE JANUARY 23, 2018 ORGANIZATIONAL AND REGULAR MEETING

A motion was made by Ms. Buda and seconded by Ms. Miller to approve the January 23, 2018 Organizational and Regular Zoning Hearing Board meeting minutes. The motion carried 4-0.

VI. ADJOURNMENT

With no further business to come before the Zoning Hearing Board the February 27, 2018 meeting adjourned at 8:44 p.m.

RESPECTFULLY SUBMITTED,



Michael MacNeely, Secretary
For the Zoning Hearing Board

Date approved by the Board: 3/27/18