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1896-1937

GEORGE F. COFFIN, JR.
1928-1986

NAZARETH OFFICE:
BY APPOINTMENT ONLY
LIBERTY AND CENTER STREETS
NAZARETH, PA. 18064

August 18, 2009

Hanover Township Engineering,
Zoning Officer
ATTN: Yvonne D. Kutz
Hanover Township Municipal Bldg.
3630 Jacksonville Road
Bethlehem, PA 18017

Re: Hanover Township Zoning Hearing Board – Minrad, Inc.

Dear Yvonne:

Enclosed herewith find copy of Findings of Fact and Conclusions of Law in the above matter, along with a copy of the cover letter enclosing the same.

Very truly yours,



Theodore R. Lewis, Esquire

TRL/bn
Enclosures

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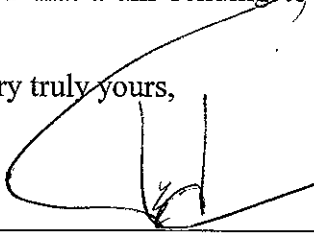
Christian M. Perrucci, Esquire
Florio, Perrucci, Steinhardt & Fader, LLC
60 West Broad Street, Suite 102
Bethlehem, PA 18018

Re: Hanover Township Zoning Hearing Board – Minrad, Inc.

Dear Attorney Perrucci:

Enclosed herewith please find a true and correct copy of the Findings of Fact and Conclusions of Law of the Hanover Township Zoning Hearing Board that I am sending to you as attorney for the petitioner in the above matter.

Very truly yours,



Theodore R. Lewis, Esquire

TRL/bn
Enclosure

cc: Yvonne D. Kutz, Zoning Administrator

HANOVER TOWNSHIP ZONING HEARING BOARD

OF NORTHAMPTON COUNTY, PENNSYLVANIA

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Re : Minrad, Inc.
Dated : June 30, 2009
Property : 3950 Schelden Circle

The Hanover Township Zoning Hearing Board, after conducting a hearing on Thursday, July 23, 2009, and rendering its oral decision granting relief from the parking provisions of the ordinance under and subject to the conditions hereinafter set forth, hereby makes the following findings of fact and conclusions of law in support thereof:

1. The subject property is located at 3950 Schelden Circle in a PIBD – Planned Industrial Business District.
2. The applicant is the owner of the property, Minrad, Inc.
3. The applicant was represented at the hearing by Attorney Christian M. Perrucci. He called as witnesses on behalf of the applicant: Michael Teague, the Plant Manager, and Ronald B. Madison, a professional engineer.
4. Attorney Perrucci also introduced through the course of the hearing the following exhibits:
 - A-1 Schematic for the WIP Tank containment area, consisting of 2 pages.
 - A-2 Site Plan entitled "WIP Tank Farm Site Plan, Minrad, INC.," with a date of 7-7-09 and no revision date.
 - A-3 Site Plan entitled "WIP Tank Farm Exhibit, Minrad, INC. Warehouse Addition", with a date of 7-7-09 and no revision date.

A-4 Plan entitled "North Parking Lot Layout Plan, Minrad, Inc., a Division of Pimamal Healthcare, Ltd." having a date of 7-20-09 and no revision date.

A-5 A list of employees and their shifts at the plant site.

5. Also appearing at the hearing on behalf of the Township was Attorney Leo DeVito of the Township Solicitor's Office, and James Birdsall of Hanover Engineering, the Township Engineering Office.

6. The present property was the subject of a prior hearing and decision of the Board dated June 6, 2006, wherein the Board granted certain variances upon the condition that the Zoning Officer, at the Zoning Officer's discretion, could require additional parking spaces to be located on the subject premises.

7. The current application is the result of the desire of the applicant to construct a Work In Progress tank containment area on the premises.

8. According to the testimony, the location of the WIP Tank containment area on the site will displace a loading dock space. However, Mr. Madison pointed out on Exhibit A-2 where the space would be relocated.

9. Mr. Madison also indicated that the parking calculations based on the changes that are now being proposed are set forth in Exhibit A-2, and the parking calculations based on the warehouse addition being built are set forth in A-3.

10. Mr. Madison acknowledged that 13 of the parking spaces that were shown in prior plans are no longer accessible because they have been fenced off. Mr. Teague indicated that it was necessary to fence off this area of the parking lot for security purposes. Mr. Madison stated that in lieu of those parking spaces the applicant is now proposing 16 new spaces as depicted on Exhibit A-4.

11. Mr. Madison and Mr. Teague also testified as to the number of employees that are currently on the site, since that is relevant to the parking calculations. (See Exhibit A-5).

12. The Township indicated that its major concern was that there be a clear determination and finding by the Board as to the number of parking spaces required for Minrad's use, the number of useable spaces which the applicant is now proposing, and the amount of additional spaces the Zoning Officer could require in the future to accommodate parking.

13. The Township and the applicant did not disagree at the hearing as to the number of parking spaces required under the ordinance, and the Board finds that the present usage of Minrad, together with the proposed WIP Tank containment area requires a total of 91 spaces under the ordinance.

14. While the applicant has lost 13 of its previously constructed parking spaces due to its fencing off that area of its parking lot, it is now proposing to construct 16 new spaces as depicted on Exhibit A-4. These new spaces, together with the 41 existing spaces not affected by the fencing, make a total of 57 proposed parking spaces.

15. The applicant has shown in Exhibit A-2 a capacity to add additional parking spaces up to the required 91 and beyond.

16. The applicant and the Township are also in agreement that the required number of parking spaces under the ordinance if the warehouse were built is 121 spaces. The applicant has demonstrated on Exhibit A-3 the capacity to have only 111 spaces and is requesting, therefore, a variance of 10 parking spaces from that required under the ordinance.

17. The Board believes as it concluded at the prior hearing, that the present applicant does not require the number of parking spaces as set forth in the ordinance. However, the Board believes that in order to insure that parking does not become a problem in the future, it is again a necessary condition to allow the Zoning Officer discretion to require

the construction of additional parking spaces on the site if the Zoning Officer believes the same are necessary.

WHEREFORE, with respect to the immediate proposal to add the WIP Tank containment area, the Hanover Township Zoning Hearing Board hereby approves the layout of the proposed 57 parking spaces subject to the condition that the applicant add the 16 new parking spaces within 60 days following this decision, and subject to the further condition that the Zoning Officer, in her discretion at any time in the future, may insist that additional parking spaces be added up to a total of the 91 spaces for this site as required under the ordinance. With respect to the warehouse addition, the Board grants a variance from the requirements of the ordinance for 121 spaces thereby permitting the warehouse addition with only a total of 111 spaces subject to the condition that the Zoning Officer, in her discretion at any time in the future, may insist that additional parking spaces be added up to the total of 111 spaces for the site.

HANOVER TOWNSHIP ZONING HEARING BOARD

By: 
Paul A. Balla, Chairman

Dated: August 18, 2009