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August 21, 2012

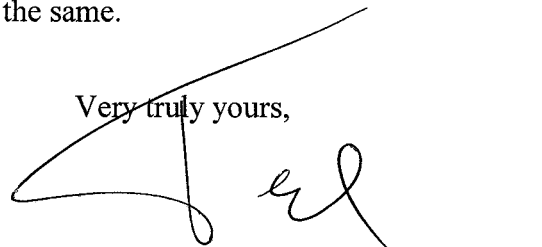
Yvonne D. Kutz, Zoning Officer
Hanover Township Municipal Bldg.
3630 Jacksonville Road
Bethlehem, PA 18017

Re: Hanover Township Zoning Hearing Board –
Luis and Christine LLC

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

cc! B.o.S.
P. Balla
V. Horvath
J. Kunkhal
L. Strang
J. Finnigan Jr
B. Kocher
L. Debits

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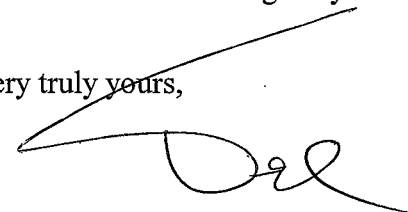
Catherine Durso, Esquire
Fitzpatrick Lentz & Bubba, P.C.
4001 Schoolhouse Lane
P. O. Box 219
Center Valley, PA 18034-0219

**Re: Hanover Township Zoning Hearing Board –
Luis and Christine, LLC**


Dear Attorney Durso:

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 Officer

HANOVER TOWNSHIP ZONING HEARING BOARD

OF NORTHAMPTON COUNTY, PENNSYLVANIA

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Re : Luis and Christine L.L.C.
Dated : June 14, 2012
Property : Stoke Park Road & Wegmans Drive

The Hanover Township Zoning Hearing Board, after conducting a hearing on Thursday, July 26, 2012, and rendering its oral decision granting a variance from the yard setback requirements of the ordinance, hereby makes the following findings of fact and conclusions of law in support thereof:

1. The subject property is located on the northeast corner of the intersection of Wegmans Drive and Stoke Park Road in an LBD – Limited Business District.

2. The applicant is Luis and Christine L.L.C., the equitable owner of the property pursuant to an Agreement of Sale entered into with the record owner of the property, Wegmans Food Market, Inc. That agreement is contingent upon the applicant's obtaining zoning approval for its proposed use.

3. The applicant was represented at the hearing by Catherine Durso, Esquire, who introduced during the course of the hearing the following two exhibits:

Exhibit A-1, being a smaller sized sketch plan of the property than the one attached to the application but otherwise identical.

Exhibit A-2, being a colorized version showing proposed landscaping.

4. Testifying on behalf of the application was Christine Alvare, one of the principals of the limited liability company. She indicated that they desire to move her husband's orthodontist office to the present site.

5. She testified that that office would occupy approximately 60% of the proposed building, and that it was the intent to rent out the balance of the building to another professional office.

6. She indicated that currently their office hours are 8:00-5:00, Monday through Thursday, although there are some variations to that.

7. The proposed building is 1-story in height.

8. Also testifying on behalf of the application was Rocco Caracciolo of Pennoni Associates, Inc. He indicated he is a Licensed Professional Engineer and was responsible for the Exhibits A-1 and A-2, as well as the Sketch Plan attached to the application which has a date of June 14, 2012, no revision dates and is entitled, "Lot 3 Stoke Park Road, Sketch Plan, Luis and Christine LLC."

9. The Sketch Plan and Exhibits A-1 and A-2 depict the proposed building, the layout of the parking lot as well as the proposed setbacks. Mr. Caracciolo testified that the parking lot provides for 42 spaces. According to him the ordinance only requires a total of 41 spaces, utilizing the standard for medical offices. Thus, if the entire office building were leased for medical offices according to Mr. Caracciolo the number of parking spaces would be adequate to meet the provisions of the ordinance.

10. According to Mr. Caracciolo, the use of the property for medical offices is a permitted use under the ordinance.

11. Mr. Caracciolo testified that the designated front yards for the property would be along Stoke Park Road and Wegmans Drive. The applicant has designated the yard along the service road and the yard behind the office building as a side yard.

12. Mr. Caracciolo did indicate that there is a possibility that Fairview Street would be opened all the way to Wegmans Drive and that, therefore, rather than this being a service road it would be a public street. He indicated this would not be determined until such time as the proposed plan went through subdivision and land development review by the Township.

13. Mr. Caracciolo further testified that the use in the neighborhood is mixed with single-family residences, professional offices, and commercial uses, including a bank and Wegmans food store.

14. He also stated that in his opinion the building being set back as close to the property to the north provided greater space for the parking lot which then had adequate maneuverability for emergency vehicles, as well as the number of parking spaces.

15. Mr. Caracciolo gave his opinion that the requested relief from the ordinance is the minimum necessary, at least as is related to the needs of his client, the applicant, to have an office space of that size. The proposed office building is 5,824 sq. ft.

16. Mr. Caracciolo also testified that in his opinion the proposed relief would not have an adverse impact or be out of character with the neighborhood.

17. Several interested neighbors were present at the hearing and testified. None of the neighbors voiced objection to the plan as proposed but they did have concerns with respect to the regulation of traffic on Fairview Street.

18. William Pike of 3709 Fairview Street, the owner of the property immediately to the north of the proposed building, was present and was asked whether he had any objection to the building being located as close to his property line as proposed. He indicated he was concerned about Fairview Street but he did not object to the building being where it is proposed.

19. Section 185-37(4) of the ordinance provides that the setbacks in a Limited Business District are 35 feet for the front yard, 20 feet for a side yard, and 30 feet for a rear yard.

20. The applicant argues that the proposed 20 foot setback on the north property line between the building and Mr. Pike's property could properly be interpreted under the ordinance as a side yard, and that the proposed setback along the service road could likewise be interpreted under the ordinance as a side yard, and that therefore based on this interpretation no variances would be necessary.

21. It was the opinion of the Board that the classification of the lines as proposed by the applicant does not fit within the definitions of the lot lines as set forth in the ordinance.

22. It is also noted that the subject lot was part of a subdivision wherein the designated yards for this same area of the lot was as a rear yard for 30 ft., so that the applicant is requesting that the Board apply a different yard than what was on the approved plan for this lot. It is acknowledged that the approved plan for this lot did not have a proposed use.

23. Therefore, the Board believes that the best approach to the request of the applicant is that a variance is required to permit the yards as proposed by the applicant along the service road and along the rear of the proposed building.

24. In that regard, the Board agrees that the subject property is unique as it relates to the application of the provisions of the ordinance with regards to lot lines and setbacks.

25. The Board also agrees that the requested relief will not be detrimental to the public welfare and will not be incompatible and out of character with the neighborhood, nor impair the development of adjacent properties.

WHEREFORE, the Hanover Township Zoning Hearing Board hereby adopts the above Findings of Fact and Conclusions of Law in support of its decision granting the variance to permit a 20 foot setback on the eastern boundary line of the property, and a 20 foot setback along the northern boundary of the property up to the point of its intersection with the rear yard setback, all as depicted on Exhibit A-1.

HANOVER TOWNSHIP ZONING HEARING BOARD

By: 
Paul A. Balla, Chairman

Dated: August 21, 2012