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June 4, 2013

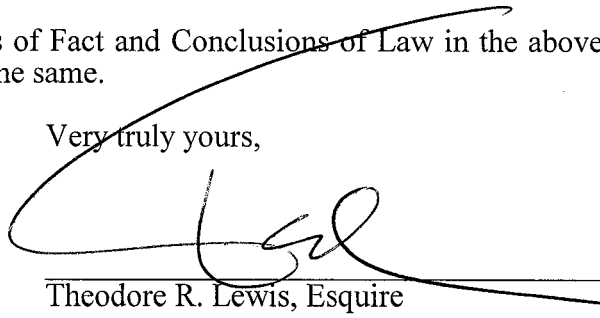
Yvonne D. Kutz, Zoning Officer
Hanover Township Municipal Bldg.
3630 Jacksonville Road
Bethlehem, PA 18017

**Re: Hanover Township Zoning Hearing Board –
PFC Bethlehem LLC, Specialty Minerals
& Donald S. & Mary K. Harris**

Dear Yvonne:

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

Very truly yours,



Theodore R. Lewis, Esquire

TRL/bn
Enclosures

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June 4, 2013

Erich J. Schock, Esquire
Fitzpatrick Lentz & Bubba
4001 Schoolhouse Lane
P. O. Box 219
Center Valley, PA 18034-0219

**Re: Hanover Township Zoning Hearing Board -
PFC Bethlehem, LLC**

Dear Erich:

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 Application of : PFC Bethlehem, LLC
Application Dated : February 25, 2013
Property : 2310 Schoenersville Road

The Hanover Township Zoning Hearing Board, after conducting a hearing on Thursday, April 25, 2013, and rendering its oral decision granting a variance to permit a second free-standing sign and denying the other requested variances as outlined below, hereby makes the following findings of fact and conclusions of law in support thereof:

1. The subject property is located at 2310 Schoenersville Road in an O&I – Office and Institutional District.

2. The applicant, PFC Bethlehem, LLC, has become the owner of the property in between the time of the filing of the application and this hearing.

3. The applicant was represented at the hearing by Attorney Erich J. Schock. During the course of the hearing he called as his witnesses, Barbara Hendricks, a member of PFC Bethlehem LLC, and Dean Andrews, Director of Facilities for Patients First.

4. Attorney Schock also introduced the following exhibits during the course of the hearing:

- A-1 Diagram and dimensions of the sign to be placed along Schoenersville Road amending the size of that sign as had been previously proposed in the application.
- A-2 Photos of the property from the other side of Jacksonville Road. (2 pages).
- A-3 Patient First – Bethlehem, Record Plan, Landscape Plan, having a date of May 9, 2012 with numerous revision dates, the last of which was March 11, 2013, accompanied by a photograph of the subject premises at its intersection with Jacksonville Road and Schoenersville Road.
- A-4 Photographs of other signs with both the name of the company and directions being shown on the sign for Stay America, P.J. Whelihan's, and Wawa. (3 pages)

- A-5 Three pages all showing the point of the premises at its intersection with Jacksonville Road and Schoenersville Road, taken from a point on Schoenersville Road.
- A-6 Seven pages depicting signs on Schoenersville Road of Walgreens, Galtman Medical Center, Good Year, Weichert Realtors, P.J. Whelihan's, Holiday Inn Express, Andrew T. Pagano, Family Dentistry;
- A-7 Photograph of typical Patient First Building with wall signs.
- A-8 Plan depicting some of the trees that were either recommended or required not to be removed on the premises.
- A-9 Eight pages with the cover page being unnumbered and the other pages being marked 1-7 depicting the proposed signs, page 2 the south elevation, page 3 the east elevation, page 4 specific details concerning the wall-mounted signs, page 5 specific details concerning the sign on Jacksonville Road, page 6 specific details concerning the sign on Schoenersville Road, page 7 additional details concerning the Schoenersville Road sign.

5. Barbara Hendricks testified first for the applicant indicating that the proposed use is for an urgent care facility. The hours of operation will be from 8:00 A.M. to 10:00 P.M. every day of the year.

6. She testified that in her opinion an additional free-standing sign along Jacksonville Road is necessary to let motorists know they have reached the Patient First site because motorists driving along Jacksonville Road would not be able to see the building very well, in part because of the shrubbery and trees and in part because of the orientation of the building.

7. She indicated that many of the trees as shown on the plan were either required by the ordinance or recommended by the Shade Tree Committee. In particular there is a large beech tree in the front at the apex of the triangle created by the two intersecting roads which will impair motorist's vision of the site.

8. She indicated that the site's unusual characteristics include the fact that it is triangular, and as a result it is not easy to locate a building and the necessary parking for that building after applying the required setbacks.

9. She also testified that there is a significant slope of land from 8 to 10 feet in elevation.

10. She also stated that the intersection is unusual in that the streets do not intersect at 90 degree angles and the intersection in her opinion is exceptionally wide.

11. On cross-examination it was suggested that the text of the proposed free-standing sign or signs as shown on the Exhibits may still exceed the 30 sq. ft. permitted under the ordinance. Moreover, it was pointed out that when the support for the sign is greater than four inches that the base or support must be considered as part of the area of the sign as per the provisions of the ordinance.

12. Attorney Schock stated that his client would reduce the text portion of the sign to be certain that it was not greater than 30 sq. ft. He stated, however, that the applicant is still requesting a monument type sign and, therefore, to the extent that pursuant to the ordinance the area of the monument is counted as part of the sign in determining maximum square footage, that the applicant is requesting a variance from this provision.

13. Dean Andrews testified next and indicated that part of his job is to provide the necessary information and pictures concerning the site to the sign company who then advises him as to the size of the signs that are necessary for this site.

14. He stated that he is aware that they normally assume in calculating the size of the sign that motorists are passing at around 45 m.p.h.

15. Upon cross-examination, Mr. Andrews acknowledged that the speed limit along this site was less than 45 m.p.h., and further that the intersection was a controlled intersection with stop lights on all sides.

16. Mr. Andrews did indicate that the normal sign package proposed by Patient First was significantly reduced in order to come into closer compliance with the ordinance of Hanover Township. He noted that the ordinance requires that the building be set back 100 ft. He believes that 25 inches which is the size of the lettering for the wall signs is ideal for viewing by motorists traveling at 45 m.p.h. at distances of 250-350 feet.

17. He also stated that he believes the height of the wall signs are necessary because of the typography of the property as well as the trees that will remain on the site.

18. He also stated that a monument sign can be landscaped around the base. It was his opinion that a monument sign is more attractive than a pole-mounted sign.

19. Sect. 185-34.B.(3) states that signs are permitted in an O&I district as an accessory use pursuant to Sect. 185-19 of the ordinance. Sect. 185-19, et seq. contains the sign regulations. The O&I district is one of the employment districts and, therefore, Sect. 185-19.D.(3) is applicable.

20. Subsection (a.) thereof states that only one permitted sign for each building may be free-standing. While there is only one building on the premises, the applicant is requesting two free-standing signs, and therefore a variance from this provision is required.

21. Subsection (c.) thereof states that individual uses shall be permitted only one wall-mounted business sign consisting of letters not exceeding 16 sq. ft. in area, and having a letter height not exceeding 8 inches high being located between 4-10 ft. above grade and on or near the user's door.

22. The applicant proposes two wall-mounted signs rather than one, and a variance for this purpose is necessary.

23. The applicant further proposes that the wall-mounted signs have an area of 29-1/2 sq. ft., that their letter height be 25 inches, that they be located approximately 17 feet 6 inches above the grade, and that they be located at the roof area rather than on or near the user's door.

24. Therefore numerous variances from this subsection (c) are required.

25. The major thrust of the testimony with respect to variances is that the peculiar shape of the lot, its slope, the required setbacks from the road, and the trees and other vegetation that will remain on the lot create a hardship when complying with the terms of the ordinance in that the signs would not be readily visible to motorists passing by.

26. With respect to the free-standing sign, the Board accepts that due to the configuration of the lot an additional free-standing sign is necessary on Jacksonville Road, and that a directional sign without indication of the user on the lot would not be sufficient for this purpose. Therefore, the Board believes that the applicant has demonstrated the need for a variance to permit the additional free-standing sign.

27. With respect to the dimensions of the free-standing sign, the applicant desires to use a monument design rather than a pole design.

28. While the Board is not necessarily unsympathetic to the esthetic consideration for placing the sign on a monument, it is constrained to follow the ordinance which defines the area as including its support if the support is greater than 4 inches.

29. The applicant clearly can comply with this provision by keeping the same signage but by using a pole mounting rather than a monument mounting, or in the alternative by continuing with its monument design but reducing the overall size of the sign so as to comply with the 30 sq. ft. The Board believes therefore that the grant of a variance for the area would be beyond the minimum relief necessary since the purpose of said sign would be served even though the applicant has to use a different design than it would prefer.

30. With respect to the proposed wall signs, it is clear from a reading of the sign provisions of the ordinance that the purpose of the sign provisions dealing with individual uses is not to be certain that they are a means for motorists to identify the building or the use from the road. Instead, the purpose is to be certain that after a person has entered into the lot where the individual use is located, there is a means to identify and confirm with the user that this is indeed the building and the front door where one goes to obtain the services.

31. However, it is clear and indeed acknowledged by Mr. Andrews that the purpose of the Patient First sign is in part for advertisement and to be certain that the sign area is large enough to be seen by motorists passing by. Thus the Board does not believe that the applicant has shown a hardship with respect to being able to comply with the purpose of the sign but rather that the sign ordinance arguably prevents the applicant from utilizing the sign for other purposes.

32. There was no testimony to suggest that the two free-standing signs would not provide adequate identification of the use of the premises. The testimony was limited solely to the argument that the wall-mounted signs, if located in accordance with the ordinance, viewed by themselves would not be adequate to identify the use by motorists traveling by.

33. Therefore, the Board believes that the applicant has not really shown a hardship in regards to the wall signs, and therefore denies the applicant any deviation from

the wall sign provisions. The applicant can still have one wall-mounted sign provided it is in compliance with all of the provisions of Subsection (c) of the ordinance.

WHEREFORE, the Hanover Township Zoning Hearing Board hereby adopts the above Findings of Fact and Conclusions of Law in support of its decision to grant a variance in order to permit one additional free-standing sign, otherwise in compliance with the provisions of the ordinance as it relates to free-standing signs, and denies the requested variances with respect to the dimensions and number of wall-mounted signs and the dimensions of the free-standing signs.

HANOVER TOWNSHIP ZONING HEARING BOARD

By: 
Paul A. Balla, Chairman

Dated: June 4, 2013

LAW OFFICES

LEWIS AND WALTERS

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June 4, 2013

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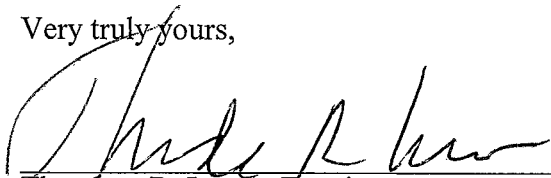
Mr. and Mrs. Donald S. Harris
4905 Maryann Lane
Bethlehem, PA 18017

**Re: Hanover Township Zoning Hearing Board –
Donald s. & Mary K. Harris**

Dear Mr. and Mrs. Harris:

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 concerning your application dated March 10, 2013.

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 Application of : Donald S. & Mary K. Harris
Application Dated : March 10, 2013
Property : 4905 Maryann Lane

The Hanover Township Zoning Hearing Board, after conducting a hearing on Thursday, April 25, 2013, and rendering its oral decision denying the requested variance from the maximum lot coverage provisions of the ordinance, hereby makes the following findings of fact and conclusions of law in support thereof:

1. The subject property is located at 4905 Maryann Lane, in an R1-S – Suburban Residential District.

2. The property is owned by the petitioners, Donald S. and Mary K. Harris.

3. Appearing at the hearing were Mr. and Mrs. Harris. They indicated that they desire to construct an in-ground swimming pool and spa with related paving and accessory areas as depicted in the Architectural Plan, Grading/E&S Control Plan and E&S Control Details/Notes submitted with their application.

4. It was noted that the lot coverage as calculated by N.D. Remy Associates on the Grading/E&S Control Plan and E&S Control Detail/Notes are not correct in that it does not include certain pavers which brought the coverage to approximately 490 sq. ft. greater than the maximum lot coverage of 33% permitted in this district, pursuant to Sect. 185-26 F. (2).

5. Variances are regulated by Sect. 185-52 of the ordinance, and the provisions of the Pennsylvania Municipalities Planning Code. Notably, these provisions require that there be a hardship, not personal in nature but of the property, and further that the relief granted be the minimum relief as is necessary to alleviate the hardship.

6. In the present case, the applicants acknowledge that they could meet the lot coverage provisions of the ordinance by constructing a somewhat smaller pool. The applicants stated, however, that they believe that there would not be a sufficient reduction in the cost of building the pool, and therefore in their opinion it was not worth constructing the pool if they had to reduce its size any further.

7. This decision of the applicants as to whether or not to build the pool if they have to reduce it to meet the requirements of the ordinance is a personal matter and not a basis for the grant of a hardship. The rules with respect to the grant of a variance make it

clear that the Board only has the authority to grant a variance if there is a hardship and that variances must represent the minimum relief necessary.

8. In the opinion of the Board, the applicants have not demonstrated any hardship as recognized by Pennsylvania law governing variances. Moreover, since the applicants can comply with the ordinance, but just not build a pool as big as they would like, it is clear that the grant of a variance would not represent the minimum relief.

WHEREFORE, the Hanover Township Zoning Hearing Board hereby adopts the above Findings of Fact and Conclusions of Law in support of its decision denying the above variance.

HANOVER TOWNSHIP ZONING HEARING BOARD

By: Paul A. Balla
Paul A. Balla, Chairman

Dated: June 4, 2013

THEODORE R. LEWIS
THOMAS L. WALTERS

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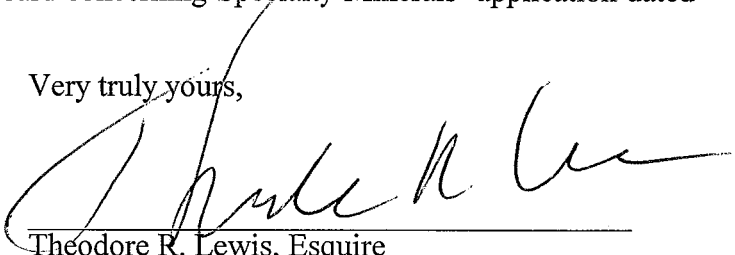
Specialty Minerals
ATTN: Leon Nigohosian, Jr., Esquire
35 Highland Avenue
Bethlehem, PA 18017

**Re: Hanover Township Zoning Hearing Board -
Specialty Minerals**

Dear Attorney Nigohosian:

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 concerning Specialty Minerals' application dated February 27, 2013.

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 Application of : Specialty Minerals
Application Dated : February 27, 2013
Property : 35, 9, 5 & 1 Highland Avenue

The Hanover Township Zoning Hearing Board, after conducting a hearing on Thursday, March 28, 2013, and Thursday, April 25, 2013, and rendering its oral decision granting in part the requested variances as outlined below, hereby makes the following findings of fact and conclusions of law in support thereof:

1. The subject property is located at 35, 9, 5 & 1 Highland Avenue in a PIBD – Planned Industrial/Business District.
2. The applicant is the owner of the property, Specialty Minerals.
3. Appearing at the first hearing on behalf of the applicant was Douglas Mayger, Vice President of Specialty Minerals.
4. Mr. Mayger presented three Exhibits at this first hearing. It was noted that in particular, Exhibit A-2 did not depict the same signs as had been reviewed by the Zoning Officer and had been submitted as part of the application. Given the confusion as to exactly what was being requested and the interest of the Township in having an opportunity to review and have input on that proposal prior to the hearing, Mr. Mayger, on behalf of the applicant, requested that the Board continue the matter to the next hearing date.
5. The Board therefore voted to continue the hearing to its next regularly scheduled meeting on April 25, 2013, at 7:15 P.M.
6. At the continued hearing the applicant was represented by in-house counsel, Attorney Leon Nigohosian, Jr. In addition to Mr. Mayger, Attorney Nigohosian also called to testify during the course of the hearing William A. Erdman, P.E. of Keystone Consulting Engineers.
7. Attorney Nigohosian introduced Exhibit A-4, being a packet consisting of 17 pages, the last page not being numbered.
8. Attorney Nigohosian also introduced Exhibit A-5 being a site plan, and Exhibit A-6 being two pages consisting of directional signs which the applicant intends to remain upon the premises.

9. The applicant desires to remove the existing wall-mounted signs from the building and in substitution therefor to permit two signs as depicted on pages 11 and 12. The signs as now proposed would be 48 sq. ft. in total and therefore exceed the maximum area of 30 sq. ft. as permitted under the ordinance.

10. The applicant has agreed to remove the requested sign on Route 22 and the existing sign on Route 22.

11. According to the testimony, the applicant has relied upon the United States Sign Council for information concerning signs and the Council's recommendation that at 35 m.p.h. a sign should be even larger than what they are proposing. Mr. Erdman of Keystone indicated that he is familiar with that recommending body and that it indeed does recommend signs of that size.

12. The Township was represented by Attorney Leo DeVito and with him Jim Millot of the Township Engineer's Office. Mr. DeVito indicated that the Township was most vehemently against the sign on Route 22 which the applicant has now agreed to remove, but the Township does express its objection to the grant of a variance as to the size of the other signs.

13. The Board after review of all of the testimony believes that the grant of a variance in this case will not be detrimental, and based on the size of the actual campus involved for Specialty Minerals and the possible confusion of motorists going by that the additional square footage for the sign is necessary for this user.

WHEREFORE, the Hanover Township Zoning Hearing Board grants a variance for the three proposed free-standing signs, as amended.

HANOVER TOWNSHIP ZONING HEARING BOARD

By: *Paul A. Balla*
Paul A. Balla, Chairman

Dated: June 4, 2013