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BY APPOINTMENT ONLY
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NAZARETH, PA. 18064

October 7, 2015

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

**Re: Hanover Township Zoning Hearing Board –
Riverbend Hanover Properties I, LLC &
Riverbend Hanover Properties II, 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
Enclosure

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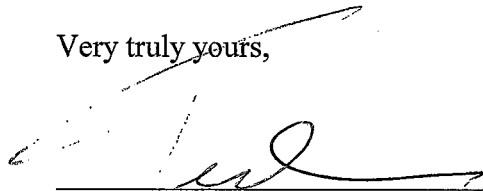
David Falcone, Esquire
Saul Ewing LLP
1200 Liberty Ridge Dr., Suite 200
Wayne, PA 19087

**Re: Hanover Township Zoning Hearing Board –
Riverbend Hanover Properties I, LLC &
Riverbend Hanover Properties II, LLC**

Dear Attorney Falcone:

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 applicants 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

Application of	:	Riverbend Hanover Properties I, LLC
Application Dated	:	July 28, 2015
Property	:	5210 Jaendl Boulevard

AND

Application of	:	Riverbend Hanover Properties II, LLC
Application Dated	:	July 28, 2015
Property	:	5220 Jaendl Boulevard

The Hanover Township Zoning Hearing Board, after conducting a hearing on Thursday, August 27, 2015, and rendering its oral decision granting a variance on 5220 from the provisions of the ordinance prohibiting luminaries from being placed more than 16 feet above ground level, granting the variance for an additional free standing sign to be located on 5210 but relating to both 5210 and 5220, and denying the variance for the proposed wall mounted sign on 5220, hereby makes the following findings of fact and conclusions of law in support thereof:

1. The applicants, Riverbend Hanover Properties I & II, LLC are the owners of adjoining properties known as 5210 Jaendl Boulevard and 5220 Jaendl Boulevard.

2. Because the principal of the applicants are the same, for economy of time and with the consent of the attorney for both applicants, David Falcone, Esquire, both applications were heard at the same time.

3. Attorney Falcone introduced on behalf of both applicants an exhibit packet for 5210 Jaendl Boulevard consisting of Exhibits A-1 thru A-6 and an exhibit packet for 5220 Jaendl Boulevard consisting of Exhibits A-1 thru A-8. Some of the exhibits were duplications.

4. The details of the second free-standing sign that would contain information with respect to both 5210 and 5220 are set forth in Exhibit A-4 of both exhibit packets and the details of the proposed wall-mounted sign on 5220 are as set forth in Exhibit A-3 of the 5220 exhibit packet.

5. Testifying on behalf of the applications was Scott Bosco who indicated that he was the principal of both applicants. Also testifying on behalf of the applications was Kevin J. Horvath, Professional Engineer with Keystone Consulting Engineers.

6. Also testifying at the hearing were residents of Traditions of America, a residential development located in a residential zone but near the subject tracts. Those residents testifying expressed concerns with respect to the traffic which was not an issue before the Board and with respect to the lighting. Some of the residents also desired that the Board impose as a condition that the applicant not illuminate the proposed free-standing signs, either internally or externally. Attorney Falcone on behalf of both applicants indicated that this condition was agreeable.

7. With respect to 5220, the applicant requests a variance from the provision of the ordinance that limits the height of luminaries from being more than 16 feet above ground level. The applicant proposes instead a height of 38 feet. The applicant's witnesses indicated that lower lights would be partially obscured by the tractor trailers that would be parked on the lot leaving areas of no illumination. The applicant also stated that in spite of the fact that the luminaries will be higher, the

maximum illumination would not exceed the performance standards as set forth in the ordinance and that there would be no spillage of this lighting onto adjacent properties.

8. The Board believes that the variance request for the height of the luminaries is justified by the particular use of the property, and is satisfied that the lighting will otherwise meet the performance standards of lighting set forth in the ordinance.

9. Turning to the requests for variances for the signs, section 185-36 G (4) permits signs as an accessory use pursuant to the Sign regulations as set forth in section 185-19.

10. Section 185-19 A indicates signs are permitted only if they are in accordance with the sign regulations. Section 185-19 B provides some General regulations for all signs. Section 185-19 D regulates business signs. Subsections (1) and (2) of 185-19 D provide general regulations of business signs and subsections (3) and (4) provide further restrictions if the business sign is located in a Employment District or a Commercial District.

11. The subject properties are located in a PIBD - Planned Industrial/Business District which is one of the Employment Districts as per section 185-9 D (1) of the ordinance. Thus the regulations of 185-19 D (3) are applicable to the proposed signs.

12. In deciding whether there is a hardship justifying a grant of a variance and/or the degree of relief necessary it is appropriate for the Board to consider the total "sign package" for the properties in question. In that regard, the applications for both 5210 and 5220 Jaindl Boulevard request a free-standing sign that is in compliance with the ordinance.

13. In addition both applicants desire a second free-standing sign which would be located on 5210 Jaindl Boulevard but would have information with respect to both 5210 Jaindl Boulevard and 5220 Jaindl Boulevard.

14. A variance for this sign is necessary because the section 185-19 D (3) (a) of the zoning ordinance only permits one free-standing sign per building in an Employment Districts. Moreover, since this second sign located on 5210 would also have information concerning 5220 rather than just the services on the lot where the sign is located, it would no longer be classified as a business sign but instead an advertising sign. as per the definitions of "SIGNS" in section 185-12 of the ordinance.

15. The applicant through its witnesses presented testimony as to the need for the second sign at the road because 5220 is not easily seen from Jaindl Boulevard in that it sits far back on a private road.

16. Exhibit A-2 of both exhibit packets shows the layout of the two lots with 5210 bordering on Jaindl Boulevard and 5220 being to its immediate rear, having access only by a private road across 5210.

17. The Board believes that the unique circumstances of these two lots being a part of the approved subdivision by the Supervisors with the rear lot being located on a private road rather than a public road, justifies the additional free-standing sign being located on the front parcel to both have information on it relating to not only that parcel but the parcel in the rear.

18. Although this is technically an advertising sign and therefore not permitted, the Board believes that these special circumstances together with the condition placed on the grant of the variance as hereinafter set forth assure that the grant of this variance would not be detrimental to the public welfare.

19. With respect to 5220, the applicant also desires a wall-mounted sign located at the southwest corner of the building at about 38 feet above grade.

20. Wall-mounted business signs in an Employment District are regulated pursuant to Sect. 185-19.D.(3)(c)[1] through [4]

21. With respect to this section, the proposed wall-mounted sign greatly exceeds 16 sq. ft., has letter height greater than 8 inches high, is not located 4-10 ft. above grade, and is not located near the user's door.

22. The applicant argued however that the wall-mounted sign is within the dimensional requirements as set forth in section 185-19.D.(1) & (2), which apparently the applicant believes overrides the particular sections of wall-mounted signs in the Employment District except for subsection (c)[2], indicating that the sign cannot be more than 10 feet above grade.

23. However, this is a somewhat moot point because the applicant agrees that it needs a variance from the height limitation of 10 feet and for the reasons hereinafter set forth the board does not believe the applicant has a hardship which is not already being addressed by the grant of the second free standing sign.


24. The applicant presented testimony with regards to the inability of motorist to see the wall-mounted sign from the road if is only located at 10 feet above grade, which it argued justified a variance from the provisions of the ordinance restricting the height of the wall-mounted sign.

25. However in this case the inability to identify the building from the road because of the topography of the lot is addressed by the grant of the variance for the second free standing sign This second sign affords a motorists the opportunity from the public road to know that they have arrived at the location for the building in the rear.

26. The alleged hardship justifying the height of the wall-mounted sign is satisfied by the grant of the variance for the second free-standing sign at the front on the adjacent lot, so that the grant of still yet another variance would be contrary to the requirements of the MPC and section 185-52 of the zoning ordinance that the Board shall grant only the minimum variance necessary to relieve the hardship.

WHEREFORE, the Hanover Township Zoning Hearing Board denies the request for the variance for the wall-mounted sign on 5220, grants the variance for the height of the luminaries on 5220, and grants the variance for the second free-standing sign located on 5210 and relating to both 5210 and 5220, provided that the information on that sign be limited to identification of the users of both the 5210 and 5220 buildings, and not for any advertising purposes, and further conditioned that none of the free-standing signs have either exterior or interior illumination.

HANOVER TOWNSHIP
ZONING HEARING BOARD

By: 
Barbara L. Baldo, Esquire, Chairperson

Dated: October 7, 2015