

HANOVER TOWNSHIP ZONING HEARING BOARD

OF NORTHAMPTON COUNTY, PENNSYLVANIA

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Re : Application of Freshpet, Inc.
Dated : January 15, 2018
Property : 176 N. Commerce Way
Hearing Date : February 22, 2018

The Hanover Township Zoning Hearing Board after conducting a hearing on Thursday, February 22, 2018 and rendering its oral decision granting the variance set forth below, hereby makes the following Findings of Fact and Conclusions of Law in support thereof:

1. The subject property is located in a PIBD – Planned Industrial Business District.
2. The applicant was represented at the hearing by Attorney David Backenstoe.
3. Testifying at the hearing was Michael Hieger on behalf of the applicant, and J. Michael Preston, Professional Engineer from Liberty Engineering.
4. The application requires relief from Sect. 185-35.F(3), which provides for a minimum rear yard setback of 40 feet. The applicant desires to construct a sewage pre-treatment building and enclose existing tanks, which will encroach into the 40 ft. setback, resulting in only a 28 ft. setback
5. The applicant, through its attorney, requested that the petition itself be marked as Exhibit A-1.
6. In addition, the applicant introduced the deed to the property as Exhibit A-2. This deed indicates that the property is actually owned by Professor Connor's, Inc., d/b/a Freshpet.
7. The applicant also introduced a Zoning Plan entitled "Phase IV Addition for Freshpet" with a date of January 5, 2018 and marked as Exhibit A-3 at the hearing.
8. Finally the applicant introduced a blown up version of that zoning plan focusing on the area where the encroachment will exist, which document was marked Exhibit A-4 at the hearing.
9. According to the testimony, the proposed encroachment would be next to the existing swale and in the opinion of the engineer would not be readily visible to neighboring property owners.
10. The Board did not believe that the grant of this variance would in any way be detrimental to the public welfare.

11. No one was present at the hearing indicating their opposition to the proposed variance.

WHEREFORE, the Hanover Township Zoning Hearing Board hereby grants the variance from the rear yard setback to permit a 12 ft. encroachment into the same, resulting in a setback as depicted on the plans of 28 feet.

HANOVER TOWNSHIP
ZONING HEARING BOARD

By: 

Barbara L. Baldo, Esquire,
Chairperson

Dated: April 4, 2018

HANOVER TOWNSHIP ZONING HEARING BOARD
OF NORTHAMPTON COUNTY, PENNSYLVANIA

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Application of	:	Steve Mortazavi, M.D.
Application received	:	January 18, 2018
Property	:	4145 Airport Road
Hearing dated	:	February 22, 2018

The Hanover Township Zoning Hearing Board, after conducting a hearing on Thursday, February 22, 2018, and rendering its oral decision granting some of the requested variances and denying others as set forth below, hereby makes the following findings of fact and conclusions of law in support thereof:

1. The subject property is located in an AFHBD – Aircraft Flightpath Highway Business District which is one of the employment districts of the township.

2. The owner and applicant is Steven Mortazavi. The property was the subject of a prior hearing before the Board on June 25, 2015, followed by the written Decision of the Board dated July 8, 2015. At that hearing the applicant indicated that his proposed use came under the definition of “Wellness Center” as contained in Sect. 185-12 of the ordinance

3. Section 185-12 of the ordinance defines a “Wellness Center” as *“a facility designed to promote health awareness and maintenance through a variety of programs and services tailored to a range of individual needs in which any combination of the following activities are provided.”* The definition then goes on to list sixteen different activities that a Wellness Center could include.

4. At the June 25, 2015 hearing Mr. Mortazavi gave details with respect to the particular components of the Wellness Center he proposes on this site. He stated in the present hearing that the component uses have not changed from that which he testified to at the prior hearing.

5. The decision of July 8, 2015 granted variances from the minimum lot size and from the provisions of the ordinance prohibiting the building from being closer than 500 ft. to a suburban R1-S zoning district. The applicant also received a variance from Sect. 185-38M(12) of the ordinance which required a 100 ft. buffer rather than a 50 ft. buffer.

6. The property was also the subject of a prior hearing before the Board on March 31, 2016, followed by a written decision of the Board dated April 14, 2016. This decision of the Board granted variances from the number of parking spots required under the ordinance, and additional variances from the buffering requirements of the ordinance. In granting relief the Board determined that a key component of the Wellness Center as proposed was that it is for members and their guests only. In fact, the Board made that a condition of the grant of the parking variances.

7. The requested relief at the present hearing is from the provisions of the sign ordinance. The application has attached to it numerous exhibits depicting the proposed signs and specifying their location and dimensions.

8. The applicant testified on his own behalf and in addition Michael Woodland, co-owner of Fast Signs, testified concerning the signs. They discussed the specifics of each of the proposed signs and the reasons why they felt they were appropriate.

9. The Township was represented at the hearing by Leo DeVito, Esquire of the Township Solicitor's Office. Also testifying on behalf of the Township was Andrew Bohl, Professional Engineer from Hanover Engineering, the engineering firm for the Township.

10. On cross examination, the applicant did acknowledge that he was generally familiar with the employment zoning district where he chose to locate his Wellness Center, and the sign provisions set forth in the ordinance for this district. Further, he acknowledged that he could still operate his facility without these signs, and that the signs in the alternative could be smaller than as proposed.

11. The Township introduced into the record Exhibits T-1, T-2, and T-3. T-1 is the official site plan for the facility. T-2 is a blowup of the entryway, at Innovation Way showing where the sign is proposed to be located. T-3 is a sign matrix depicting the size and dimension of all of the proposed signage.

12. One of the neighbors who were present at the hearing indicated that the proposed signs in his opinion were not in character with the neighborhood. Another neighbor expressed concern as to how bright the signs might be and that the signs might be lit 24 hours a day.

13. With respect to the proposed free-standing sign, the applicant requires several variances. First, Sect. 185-19.B.(4)(a) prohibits a sign from being erected, attached or displayed within 75 ft. of the point of intersection of the right-of-way lines at a street corner.

14. There was some debate as to whether or not the proposed sign is within that area as measured by the ordinance. Regardless of the interpretation of the ordinance, the Board believes that in this instance the location of the sign is appropriate in that the proposed sign will not prevent a clear view of traffic, since anyone stopping at this intersection would be past the sign where it is proposed to be located.

15. This same proposed free-standing sign also requires relief from the area provisions of the ordinance. In particular, Sect. 185-19.B.5 provides that if the framing members of the sign are 6 inches or wider, they shall be included as part of the area of the sign. In addition, Sect. 185-19.B.(4)(b) provides in relevant part that a free-standing sign shall not be greater than 30 sq. ft. in area.

16. With respect to the provisions concerning framing members, the Board notes that this free-standing sign is more like a monument sign and the framing members are more esthetic and decorative. Further, no part of the framing members are the message part of the sign. Therefore, the Board believes that a variance from this section is appropriate.

17. However, even considering only the message area of the sign, the proposed sign is still 32 sq. ft. exceeding the maximum area of 30 sq. ft. as permitted under the ordinance.

18. The applicant argues through his witness that the proposed electronic sign only comes in certain sizes, and that the closest size available is 32 sq. ft. rather than 30 sq. ft. The Board agrees with the contention of the Township that the applicant has not demonstrated a compelling reason why he cannot comply with the ordinance. The Board does not believe that the applicant has an absolute right to an electronic sign at this spot, and could either have a smaller electronic sign or use a conventional sign to meet the requirements of the ordinance.

19. Finally, with respect to the free-standing sign, the applicant desires relief from the provisions of the ordinance in Sect. 185-12 that indicates that electronic signs shall not change the display more than once every 60 minutes.

20. The Board was unpersuaded by any of the testimony that the applicant needs to have relief from this section in order to continually display everything that might be going on in the facility. It is noted again that the Wellness Center is limited to members and their guests only, and not to the general public. In the opinion of the Board a fast paced electronic sign is neither necessary nor in keeping with the general neighborhood and the sign schemes for an employment district.

21. The applicant also proposes two wall-mounted signs. These signs require relief from Sect. 185-19-D.(3)(c). This section permits only one wall-mounted sign on the building, and further provides for a maximum area of that sign to be 16 sq. ft. with a maximum lettering height of 8 inches, and the location of such a sign being 4-10 ft. above grade and near the user's door.

22. The Board believes that the relief being requested with respect to these wall-mounted signs is well beyond the signage scheme as set forth in the ordinance for employment districts.

23. The Board does recognize that the site could have several buildings, but has instead one large building. For this reason the Board is willing to permit the one sign above the main entrance. It is also noted that this sign does not face out onto any other residential areas, but is inward towards the parking lot. The Board takes note that the applicant already did receive a variance to locate its facility closer than 500 ft. from the suburban residential district, and limiting the one sign to the end which does not face this residential district is consistent with being certain that the proposed relief is not detrimental. Therefore, the Board believes that the wall mounted sign above the entrance indicating Valley Wellness Center with no pictograms on the north side of the building facing the parking area is appropriate and relief is granted for such a sign. The Board denies the relief for the other wall-mounted sign on the eastern side and corner of the building wrapping around to the north side of the building.

24. It is noted that the applicant testified that the wall-mounted sign will be back lit and not project light. This in the opinion of the Board is an essential element in the Board granting the relief as to the wall-mounted sign.

25. The applicant also requests six awning signs which are depicted in Exhibit C-2 and E attached to the application. These awnings would be similar to any awning except that they would have a pictogram on them. The Board believes that such signs are not detrimental, and therefore grants the variance for these six awning signs.

26. Finally the applicant proposes pole banner signs depicted in Exhibit D. Banner signs are not permitted other than as a temporary sign and these particular signs are clearly out of keeping with the signage scheme for the employment district. It is clear that the applicant can continue to operate its facility without said signs and indeed can let its members and guests know the services

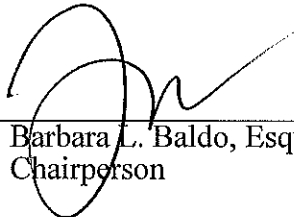
being rendered in ways other than these proposed pole banner signs. Therefore, the Board denies the variance for these pole banner signs.

WHEREFORE, the Hanover Township Zoning Hearing Board hereby adopts the above Findings of Fact and Conclusions of Law and grants a variance from the provisions of the ordinance with regards to including the framing members in excess of 6 inches as part of the sign area, based on the proposed sign, grants any variance necessary for the location of the free-standing sign where it is located, denies a variance from the message board of the sign being more 30 sq. ft., and denies a variance from the provisions that if such sign is an electronic sign it cannot change any more than once every 60 minutes.

Finally, the Board denies the requested variances for the two wall-mounted signs and grants a variance for the one wall-mounted sign as proposed above the main entranceway on the north side of the building. The Board grants variances for the six awning signs and denies variances for the proposed pole banner signs.

HANOVER TOWNSHIP
ZONING HEARING BOARD

By: _____


Barbara L. Baldo, Esquire,
Chairperson

Dated: _____

4/4/18