

HANOVER TOWNSHIP ZONING HEARING BOARD

OF NORTHAMPTON COUNTY, PENNSYLVANIA

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Petition of: : 4300 Airport Rd PA, LLC
Application Dated : March 28, 2023
Property : 4000-4030 Airport Road

The Hanover Township Zoning Hearing Board after conducting a hearing on Thursday, April 27, 2023, and approving the Petitioner's requested variance from the woodland provisions of the zoning ordinance, hereby makes the following Findings of Fact and Conclusions of Law in support thereof:

1. The subject property consists of Tax Parcels M5-7-14B and M5-7-15B and is located in an AFHBD, Aircraft Flight Path Highway Business District.
2. The applicant requests relief from provisions of the woodlands ordinance preventing removal of trees classified as woodlands on the premises.
3. The applicant was represented at the hearing by Attorney Frank N. D'Amore.
4. The sole witness appearing on behalf of the applicant was C. Richard Roseberry, Engineer. No witnesses appeared at the hearing against the relief proposed by the applicant.
5. The applicant introduced into the record the following exhibits:

A-1 – Resume of C. Richard Roseberry

A-2 – Aerial photograph of the subject premises.

A-3 – Consisting of two plans; one entitled “Dimension Plan” and designated 4 of 20 with a date of 6/2/22 and the other entitled “Landscape Plan”, designated 11 of 20 with a date of 6/2/22.

A-4 - Plan entitled “Woodland Areas and Existing Trees Exhibit”, designated sheet No. 1 with a date of 6/2/22.

6. Woodlands are defined in Section 185-12 of the ordinance. In order to be regulated under the woodland provisions of the ordinance, the area of woodlands needs to consist of at least 20,000 square feet or more. According to the testimony, the woodlands in the present case consist of 177,830 square feet.

7. The regulations concerning woodlands are found in to Section 185-22 F(1) through (5) of the ordinance.

8. Subsection (1) requires that a site plan be submitted to the Township Shade Tree Commission and Planning Commission and approval by the Board of Supervisors. The report of the Shade Tree Commission was not submitted at the hearing but according to the testimony of Mr. Roseberry, as well as the Zoning Officer, the Shade Tree Commission did not object to the proposed relief requested by the applicant.

9. Subsection (2) requires the modification of what would otherwise be the lot size, maximum density and maximum lot coverage depending on the percentage of the property that is covered by woodlands. According to the testimony of Mr. Roseberry, the percentage of property covered by woodlands in the present case is approximately 2.3 percent. Therefore, the development density and coverage factor is 1.0 requiring no reduction in lot size, density or maximum lot coverage because of the woodlands.

10. Subsection (3) of the ordinance prohibits the removing of woodlands to avoid the requirements of this chapter. The applicant proposes to remove woodlands but has not done so to avoid compliance and has instead made its present application asking for relief from the woodland provisions of the ordinance.

11. Subsection (4) indicates that the maximum amount of woodlands that need to be preserved for the lot would be not more than 20 percent.

12. Subsection (5) of the woodlands ordinance requires that the plan be consistent with the requirements of this section. According to the testimony of Mr. Roseberry, the woodlands that are

intended to be removed are solely limited to the woodlands that roughly delineate the boundary between the two existing lots which are intended to be combined.

13. Mr. Roseberry stated that these woods are a row of trees that did not come into existence by intentional planting to create a woodland area, but merely as a delineation between the farming areas of the two lots. He indicated the woodlands here are not the kind of trees that generally are desired to be preserved and in fact, many of these trees were possibly not in existence prior to the 1980's.

14. The total woodland area consist of 177,830 square feet, of which 25,654 feet are being removed as per the proposal for a total of approximately 14.4 percent of the woodlands that now exist. The areas which are intended to be kept as well as to be removed are as depicted on the exhibits submitted at the time of the hearing,

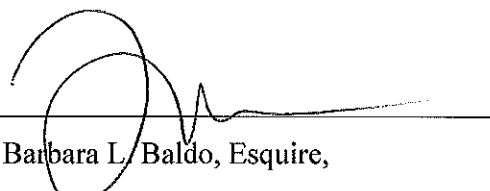
15. In addition, Mr. Roseberry indicated that the application will consist of not only preserving most of the trees but of planting new trees on the property as indicated in the plans.

16. The Board believes that a variance from the provisions of the woodlands as it relates to preserving existing woodlands is appropriate as most of the trees on the tract are being preserved, new trees are being planted and the woodlands being removed are not of a high quality and particularly worthy of preservation.

WHEREFORE, the Zoning Hearing Board grants the requested variance from the woodland provisions of the zoning ordinance, permitting the removal of the existing woodlands as indicated and the planting of new trees in accordance with the plans as submitted to the Board.

HANOVER TOWNSHIP
ZONING HEARING BOARD

By: _____


Barbara L. Baldo, Esquire,
Chairperson

Dated: _____

6-5-2023