

APPLICATION NOS. Z-12-02 : HEARING DATE: June 28, 2012

PROPERTY:
4001 Eagleville Road
Lower Providence Township
Norristown, PA 19403
Parcel No. 43-00-03340-00-1

The applicant, Methacton School District (hereinafter "Applicant") filed an application requesting a variance from the Sections 143-139.A(5) and 143-140.B(1) of the Lower

Providence Township Zoning Ordinance in connection with the proposed construction of a monument sign measuring approximately ninety seven (97) square feet and including a digital message board. The application was properly advertised, and a public hearing was held before the Lower Providence Township Zoning Hearing Board (the "Board") on June 28, 2012 at the Lower Providence Township Building. All members of the Board were present except for William Donovan, who was excused, Kathie Eskie, alternate, served in his absence. Also present were the Solicitor, the Zoning/Code Enforcement Officer and the Court Reporter. Eric Frey, Esquire recused himself on account of his firm's past representation of the District.

1. The Applicant is the Methacton School District.

2. The Applicant is the owner of the subject property located at 4001 Eagleville

Road Norristown, PA 19403 (hereinafter the "Property"). The parcel number is 43-00-03340-00-

3. The applicable zoning district is R-1, residential district.
4. The Applicant was not represented by legal counsel.
5. The lot size is 67.53 acres.
6. The present use of the Property is educational and includes Arcola Intermediate School and the Methacton School District Facilities Maintenance building.
7. William Jacobe, Director of Facilities and Dr. Timothy J. Quinn, Superintendent were witnesses in support of the application.
8. The following exhibits were marked at the hearing:
 - B-1 Application filed at Z 12-02
 - B-2 Advertisement
 - B-3 Proof of publication
9. There is currently a monument sign on the Property but due to campus renovation the sign is located on a driveway that now serves solely as an exit.
10. The Applicant proposes to remove the existing sign and erect a monument sign at the new entrance to the Campus.
11. The proposed sign is twelve (12) feet, five (5) inches wide and seven (7) feet, ten and one half (10 ½) inches tall.
12. The proposed sign includes a programmable electronic portion with a message that will change no more than every forty-five (45) seconds and will be amber in color.
13. The proposed messages are to convey updates regarding school district activities as well as Township activities at the Township's request.
14. There was adverse public comment regarding this application.
15. There is no unnecessary hardship requiring the grant of a variance.

16. There are no unique physical characteristics of the property which require the proposed sign.

DISCUSSION and CONCLUSIONS OF LAW

1. The applicant has standing to appear before the Board regarding the requested relief.

2. Denial of the requested relief will not impose an unnecessary hardship on the Applicant.

3. The hardship is self-imposed and is not due to the unique physical circumstances of the Property.

4. The requested relief is not necessary to enable the Applicant's reasonable use of the Property, does not represent the minimum that will afford relief, and does not represent the least modification possible of the regulation at issue.

5. The proposed sign will alter the essential character of the neighborhood in which the Property is located.

The Applicant has requested a variance from the sign limitations of Sections 143-139.A(5) and 143-140.B(1) of the Lower Providence Township Zoning Ordinance. The request seeks relief as to the dimensional requirements and prohibition of electronic message signs in the R-1 residential district.

Differing standards apply to use and dimensional variances. Generally, a variance requires the applicant to show that unnecessary hardship will result if a variance is denied, and that the proposed use will not be contrary to public interest. Hertzberg v. Zoning Bd. Of Pittsburgh, 554 Pa. 249, 257, 721 A.2d 43, 47 (1998) (citing Allegheny West Civic Council, Inc. v. Zoning Bd. Of Adjustment of the City of Pittsburgh, 547 Pa. 163, 167, 689 A.2d 225,

227 (1997)). The quantum of proof required to establish unnecessary hardship in the case of a dimensional variance is, however, lesser than when a use variance is sought. Id. at 258-59.

Regardless of the type of variance sought, the reasons for granting a variance must be substantial, serious, and compelling. POA Company v. Findlay Township Zoning Hearing Board, 551 Pa. 689, 713 A.2d 70 (1998); Evans v. Zoning Hearing Board of the Borough of Spring City, 732 A.2d 686 (Pa. Commw. 1999); Soteneanos, Inc. v. Zoning Board of Adjustment of the City of Pittsburgh, 711 A.2d 549 (Pa. Commw. 1998). Pursuant to the Municipalities Planning Code the following must be found in order for the Board to grant the requested variance:

(1) That there are unique circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the zoning ordinance in the neighborhood or district in which the property is located.

(2) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

(3) That such unnecessary hardship has not been created by the applicant.

(4) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.

(5) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue. 53 P.S. § 10910.2.

There are no unique circumstances that require a variance from the prescribed sign ordinances. Neither the size of the lot, nor its physical characteristics prohibit the Applicant from erecting a sign on the proper entrance driveway that conforms to the limits of ordinance. The proposed sign measures approximately ninety-seven (97) square feet and contains

electronic messages not permitted in residential districts. The fact that Applicant is willing to comply with the electronic board limits imposed on commercial districts does not mitigate the proposed violation of the ordinance. Additionally, the proposed sign measures approximately ninety-seven (97) square feet, well over the fifteen (15) square foot limit. Further, several members of the community voiced their objections to the installation of an oversized, electronic, programmable sign claiming that it would shine into surrounding homes and distract drivers at an intersection extremely difficult to navigate. Applicant has not demonstrated that this size and type of sign is necessary for the use of the Property.

The Applicant can comply with the relevant zoning ordinances by removing the current sign from the exit driveway and erecting a sign in conformance with the ordinance on the proper entry. Therefore requiring the Applicant to construct a sign in conformity with the current ordinance is not an undue hardship. There does not appear to be either a substantial, compelling, or serious reason why the variance should be granted.

Accordingly, the Board finds that the application for a variance from Sections 143-139.A(5) and 143-140.B(1) of the Lower Providence Township Zoning Ordinance is denied.

DECISION

The decision of the Lower Providence Township Zoning Hearing Board by a 4-0 vote is as follows:

The application for a variance from Sections 143-139.A(5) and 143-140.B(1) of the Lower Providence Township Zoning Ordinance is denied.


Dated: June 28, 2012

ORDER

The foregoing Findings, Discussion and Decision are hereby approved and ordered.

LOWER PROVIDENCE TOWNSHIP ZONING HEARING BOARD



Nancy McFarland, Chairwoman


Thomas A. Borai, Vice Chairman

Recused

Eric C. Frey


Joyce D. Chuley


Kathie A. Eskie

NOTE TO APPLICANT

There is a thirty (30) day period after the date of a decision for an aggrieved person to file an appeal in the Court of Common Pleas of Montgomery County to contest an approval or denial by the Zoning Hearing Board. If the Applicant has been granted Zoning Hearing Board approval, the Applicant may take action on said approval during the thirty (30) day appeal period; however, the Applicant will do so at his or her own risk. If the Applicant received Zoning Hearing Board approval, the Applicant must secure all applicable permits from Lower Providence Township within one (1) year of the date of the approval or the decision granting approval.