

YORK TOWNSHIP

190 Oak Road, Dallastown, Pennsylvania 17313
Phone (717)741-3861 Fax (717)741-5009

York Township Zoning Hearing Board
December 28, 2010
6:00 p.m.

The December meeting of the York Township Zoning Hearing Board was called to order by Teri Hollway, Chair.

Those in attendance were:

Teri Hollway, Chair
Glenn Myers, Assistant Secretary
David N. Fishel, Member
William Descar, Member
Lisa Frye, Zoning Officer
Jeffrey L. Rehmyer, II, Esq.

MINUTES OF NOVEMBER 23, 2010

The Zoning Hearing Board minutes of the November 23, 2010, meeting were approved.

DECISIONS OF NOVEMBER 23, 2010

The Zoning Hearing Board decisions of the November 23, 2010, meeting were approved.

HEARINGS

Appl.2010-32: Alpine Sign and Lighting requests a Variance to construct a free standing shopping center sign which devotes less than 50% of the total sign area to the advertisement of the shopping center's name on property

York Stenographic Services, Inc.
34 North George St., York, PA 17401 - (717) 854-0077

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located at 2058 South Queen Street in a Heavy and Highway Commercial (C-H) zone.

Present: Doug Bray

I move that Appl.2010-32, Alpine Sign and Lighting requests a Variance to construct a free standing shopping center sign which devotes less than 50% of the total sign area to the advertisement of the shopping center's name on property located at 2058 South Queen Street in a Heavy and Highway Commercial (C-H) zone, also that the sign will exceed the 20 feet which is part of the ordinance, and also that it's larger than 100 square feet, be approved.

MOTION MADE BY: Glenn Myers
SECONDED BY: William Descar
MOTION PASSED UNANIMOUSLY

Appl.2010-33: Matt DeRose requests an Appeal from Decision of Zoning Officer referring to interpretation of Section 265-139.B.(1) for inclusion of Laser Tag in the basement of Bogey Macaws on property located at 601 Chestnut Hill Road (known as Springwood Golf Club) in a Residential-Low Density (RL-3) zone.

Present: Matt DeRose

I move that Appl. 2010-33, Matt DeRose requests an Appeal from Decision of Zoning Officer referring to interpretation of Section 265-139.B.(1) for inclusion of Laser Tag in the basement of Bogey Macaws on property located at 601 Chestnut Hill Road (known as Springwood Golf Club) in a Residential-Low Density (RL-3) zone, be denied.


MOTION MADE BY: David Fishel
SECONDED BY: Glenn Myers
MOTION PASSED UNANIMOUSLY

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ADJOURNMENT

The meeting adjourned at 7:25.

ATTEST:



~~Shirley Sterner~~, Secretary

DECISION OF THE YORK TOWNSHIP ZONING HEARING BOARD

Application Number: 2010-32
Hearing Date: December 28, 2010
Applicant: Alpine Sign & Lighting
Property Owner: Kenque Associates
Property: 2058 S. Queen Street, York, PA 17403
UPI: 54-000-04-0033.A0-00000
Existing Zoning District: C-H Zone (Highway Commercial)

Relief Requested- Variance under the York Township Zoning Ordinance of 1996, as amended (the "Ordinance") and pursuant to Section 265-41C(3) thereof.

FINDINGS OF FACT

Based upon the evidence presented, and its evaluation of the credibility of the witnesses, the Board finds as follows:

1. The foregoing information and the Application, including its attachments, are incorporated by reference.
2. Doug Bray was present on behalf of the Applicant.
3. Mr. Bray is requesting, on behalf of the Applicant and Owner, approvals necessary for a shopping center sign, as generally shown on the color rendering (the "Rendering") that was enclosed with the Application materials (the "Sign").
4. Specifically, variances are requested from the specific sign design standards for shopping center signs, as referenced in Section 265-41G(3) of the Ordinance and the accompanying table, from the following requirements:
 - a. A variance to exceed the maximum permitted height of 20 feet.
 - b. A variance to permit the sign to exceed a maximum of 100 square feet.
 - c. A variance to allow less than 50% of the total sign area (per side) to the advertise of the shopping center's name.
5. With regard to the prior sign on the Property, Mr. Bray testified as follows:
 - a. The Property was previously utilized as a Blockbuster Video Store.
 - b. The prior sign for the Blockbuster was approximately 220 square feet in size.
 - c. The post for the prior sign was approximately 28 feet in height, on top of which the prior sign was attached.
 - d. A color picture of the post was enclosed with the application materials.
 - e. The prior sign was removed, without notice or approval, by Blockbuster, which is why there is no sign present on the Property now.
6. Mr. Bray presented evidence with regard to the proposed Sign as follows:
 - a. The Property Owner is converting the building into a four unit commercial property.

- b. The Property will be called D.J. Plaza.
 - c. The proposed Sign will be created as shown on the Rendering submitted with the Application.
 - d. The Sign will include the name D.J. Plaza at the top, with the street number at the bottom.
 - e. In between, there will be four locations for each of the tenants, with Jimmy Johns and Little Ceasars Pizza being shown on the Rendering.
 - f. Additionally, there will be an electronic message board.
 - g. As a sign design professional, Mr. Bray believes that the proposed sign will be both functionally and aesthetically appropriate.
7. With regard to the variances, Mr. Bray provided additional testimony as follows:
- a. The Property itself sits considerably lower than street level, which is why the Sign height must be higher, so that the Sign will be high enough to be appropriately seen throughout the intersection.
 - b. The prior sign, Blockbuster, was much larger than the proposed Sign.
 - c. Under the Ordinance, there could be a shopping center sign for each of the two street frontages, but the Applicant and Owner are willing to forego the second sign if the first Sign can be as proposed.
8. Lisa Frye, the Township zoning officer, confirmed that the prior sign for Blockbuster was very large, and certainly larger than the proposed sign.
9. Robert Behler, of Coldwell Banker Commercial Bennett Williams, indicated that the prior sign, according to a 1990 lease for the Property, was 24 feet by 12 feet 3 inches.
10. In response to the criteria for the variance, the Applicant provided the following:
- a. The unnecessary hardship that exists is due to unique physical circumstances or conditions, including the level of the property, which is considerably below the level of Queen Street in front of it, and such unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provision of this chapter in the neighborhood or district in which the Property is located.
 - b. Because of such physical circumstances or conditions, there is no possibility that the Property can be developed in strict conformity with the provisions of this Chapter and the authorization of a Variance is therefore necessary to enable the reasonable use of the Property, as the proposed Sign is necessary for adequate and safe use.
 - c. The unnecessary hardship is not being created by the Applicant, as the topography was previously existing.
 - d. 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.
 - e. The Variance, if authorized, will represent the minimum Variance that will afford relief and will represent the least modification possible to the regulation at issue.
11. The Applicant confirmed that it would be agreeable to the following conditions:
- a. That there would only be one free standing Sign, as proposed in this Application, and the second free standing shopping center sign as allowed by the Ordinance would not be utilized.
 - b. That the electronic message board on the Sign would only utilize a single color, which color would not interfere with nearby traffic signals.
- (Collectively the “Conditions”)

CONCLUSIONS OF LAW

Based upon the Findings of Fact, and pursuant to applicable law, the Board concludes as follows:

- 1. That the prior sign on the Property was substantially larger than the proposed Sign.
- 2. That it is particularly compelling evidence that the prior sign was removed without authorization.
- 3. That the location of the Property, sitting below Queen Street, is an important factor.
- 4. That the imposition of the Conditions is a prerequisite to the grant of the Variance for the Sign.
- 5. That the variance criteria have been met.

Accordingly, Glenn Myers moved and William Descar seconded, to grant three variances to construct a free standing shopping center Sign, which devotes less than 50% of the total Sign area to the advertisement of the shopping center’s name, exceeds the maximum allowed height of 20 feet, and exceeds the maximum size of 100 square feet, on the Property located at 2058 South Queen Street in a Highway Commercial (C-H) Zone. The motion passed with a vote of 4-0, with all members voting in favor.

WITNESS/ATTEST

**YORK TOWNSHIP
ZONING HEARING BOARD**

Glenn Myers
Secretary

By: Teri L. Hollway
Teri L. Hollway, Chair

1-25-11
Date

The zoning relief granted herein is valid for a period of six (6) months from the date of its authorization (which authorization is deemed to be granted on the date that the Zoning Hearing Board rendered a decision at the hearing or in writing, whichever comes first) pursuant to Sections 265-145A. (3) and 265-146 of the Ordinance, unless the Applicant has proceeded to obtain a building permit or submit a land development plan.

DECISION OF THE YORK TOWNSHIP ZONING HEARING BOARD

Application Number: 2010-33

Hearing Date: December 28, 2010

Applicant: Matt DeRose

Property Owner: Springwood, LLC

Property: 601 Chestnut Hill Road, York, PA 17402
UPI: 54-000-IJ-0273.A0-00000

Existing Zoning District: RL3 (Residential-Low Density)

Relief Requested- Appeal of Zoning Officer under the York Township Zoning Ordinance of 1996, as amended (the “Ordinance”) and pursuant to Section 265-139.B.(1) thereof.

FINDINGS OF FACT

Based upon the evidence presented, and its evaluation of the credibility of the witnesses, the Board finds as follows:

1. The foregoing information and the Application, including its attachments, are incorporated by reference.
2. The Applicant was present and represented himself.
3. The Applicant submitted a letter signed on behalf of the Owner, authorizing him to make the appeal.
4. The Applicant is appealing a determination of the Zoning Officer denying a request to add laser tag to the basement of the clubhouse on the Property, within which there is a restaurant called Bogey Macaws (the “Clubhouse”), which appeal was made in writing signed on November 17, 2010.
5. Mr. DeRose presented two exhibits to the Board, as follows:
 - a. Exhibit 1 was a basement plan for the Clubhouse, showing generally a proposed laser tag area.
 - b. Exhibit 2 was various color photographs of a sample laser tag “gun” and a sample laser tag layout for playing the game.
6. Mr. DeRose provided evidence in support of the appeal as follows:
 - a. There was a verbal request for laser tag, which was denied by the Determination.
 - b. According to the appeal form, the verbal denial occurred on October 12, 2010.
 - c. The Property has continued to be used as a golf course, although the Clubhouse has evolved further as a commercial accessory use.
 - d. Recently, the prior ball room was converted to a recreation area for children.
 - e. In conjunction with that recreation area, the Applicant would like to do 2,000 square feet area in the basement for laser tag.
 - f. The laser tag facility would likely be utilized by children between the ages of 5 and 14 years.

- g. The laser tag would be available to anyone.
 - h. The hours of laser tag would likely be similar to Bogey Mccaws, potentially open until midnight on Sunday through Thursday and until 2:00 a.m. on Friday and Saturday evenings.
 - i. The laser tag facility could accommodate approximately 24 children at one time.
 - j. The Applicant would operate the facility and supervise it.
 - k. Administrative functions related to the laser tag would be conducted from the pro shop in the Clubhouse.
7. The Applicant indicated that he was seeking some guidance on the issue.
8. The Applicant is proposing that laser tag should be considered as one of the Clubhouse accessory uses authorized in Section 265-135.B(1)(g) of the Ordinance, namely “game rooms, including card tables, billiards, ping pong and other similar table games.”
9. John E. Bowders questioned the Applicant as follows:
- a. Was there a written application for approval of the laser tag use, to which the Applicant indicated no.
 - b. Was there a written denial of the request for the use, to which the Applicant indicated no.
10. Mr. Bowders provided testimony in support of a denial of the appeal, which included the following:
- a. The Applicant never properly filed an Application to add laser tag as an accessory use at the Clubhouse.
 - b. The Zoning Officer never denied Applicant’s request to add laser tag as an accessory use in writing.
 - c. The appeal documents are procedurally defective because they do not meet the requirements of Section 265-147.A of the Ordinance.
 - d. The proposed use, laser tag, is not specifically authorized as an accessory pursuant to Section 265-139.B of the zoning ordinance.

CONCLUSIONS OF LAW

Based upon the Findings of Fact and pursuant to applicable law, the Board concludes as follows:

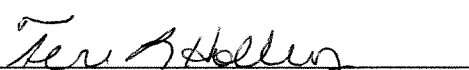
- 1. That the appeal does not meet the requirements of Section 265-147A, when reviewing the written documentation of the case.
- 2. The proposed use is not a “game room” accessory use, as allowed by Section 265-139(B)(1)(g) nor is it otherwise authorized an accessory use in any other portion of 265-139(B).

Accordingly, Dave Fishel moved, and Glenn Myers seconded, to deny Applicant’s appeal from the decision of the Zoning Officer’s interpretation of Section 265-139.B(1) for inclusion of laser tag in the basement of Bogey Macaws on property located at 601 Chestnut Hill Road (known as Springwood Golf Club) in a Residential-Low Density (RL3) zone. The motion passed with a vote of 4-0, with all members voting in favor.

WITNESS/ATTEST

**YORK TOWNSHIP
ZONING HEARING BOARD**


Secretary

By: 
Teri L. Hollway, Chair

1-25-11 Date