

MONROE TOWNSHIP ZONING HEARING BOARD

IN RE:	:	
	:	
Application of	:	APPEAL NO. 2020-02 ZHB
Lehman Realty, LLC	:	
Premises: 977 West Trindle Road	:	
Mechanicsburg, PA 17055	:	

DECISION

This case comes before the Monroe Township Zoning Hearing Board (“Board”) pursuant to the provisions of §604.4 of the Monroe Township Zoning Ordinance (hereinafter referred to as the “Ordinance”), the same being an application for a variance by Lehman Realty, LLC (“Applicant”) from the provisions of §310.3.1.D of the Ordinance, relating to the prohibition of parking in the front yard portion of a premises within the HC (Highway Commercial) Zone. The variance is sought to permit the construction of commercial structure with parking in front of the structure, in apparent violation of the foregoing Section of the Monroe Township Zoning Ordinance.

Pursuant to notice duly given, as required by the provisions of the Ordinance, a hearing was held before the Board at the Monroe Township Municipal Offices, 1220 Boiling Springs Road, Mechanicsburg, Pennsylvania, on Thursday, June 18, 2020, beginning at 6:00 p.m. The matter was heard by Richard Moore, Chair of the Board, and member Paul Rast.

In accordance with the provisions of the Ordinance, notice of said hearing was given to the Applicant and to adjoining property owners. A Proof of Publication of public notice is also made a part of the Record.

Testimony at the hearing was offered by Applicant’s representative, Chris A. Hoover of Hoover Engineering Services, Inc. Testimony on behalf of the Township was offered by Gregory R. Rogalski, the Township Zoning Officer. The Application with attached drawings filed by the Applicant was admitted into evidence as Board Exhibit 1.

No objectors appeared at the hearing to register any opposition to the requested variance.

At the conclusion of the evidentiary hearing of June 18, 2020, the Board in open meeting conducted a formal discussion of the matter and took formal action.

The Record consists of the aforesaid Notice of Public Hearing, Proof of Publication, and letters of notification of neighboring property owners, together with the original Application filed by the Applicant (Board Exhibit 1).

FINDINGS OF FACT

After a review of the testimony and the documents included in the Record of this case, the Board makes the following Findings of Fact:

1. On February 26, 2020, Lehman Realty, LLC (“Applicant”), the owner of the property located at 977 West Trindle Road, Mechanicsburg, Cumberland County, Pennsylvania, filed a Zoning Hearing Board Application, seeking a variance that would allow for a new commercial structure to be constructed, with front yard parking, in the HC Zone. The Application included drawings depicting the dimensions relating to the requested variance, which have been received into evidence.

2. Applicant sought a variance from the Ordinance’s prohibition on front yard parking in the affected commercial zone, so that the new structure could be constructed to serve as an Agway store, to replace a similar store now situated in the Borough of Mechanicsburg.

3. The lot in question is generally rectangular in shape, containing 4.1 acres, with the sides of the lot being substantially longer than the front and back lines. The property is served by an on-site well and septic system.

4. The Applicant intends to construct a 4,000 square foot building, with accessory storage for grains and feeds. The front edge of the structure will be situated 200 feet from the right-of-way of Trindle Road.

5. Because a sinkhole has developed on a neighboring lot, located at the Northeast corner of Applicant's premises, it was deemed necessary by the Applicant's Engineer to situate a stormwater management basin in the front yard of the premises, adjacent to Trindle Road. Consequently, the front edge of the proposed front yard parking lot will be no closer than 125 feet from Trindle Road.

6. The commercial facility will include loading and unloading access to the rear and side of the structure, with the resulting need for an adequate maneuvering space for large vehicles that is situated a safe distance removed from the retail customer parking spaces in the front of the structure and that will promote less dangerous traffic patterns throughout the property.

7. It is noted that commercial uses predominate in the neighborhood of the subject premises, and that most of these other commercial facilities in the vicinity feature front yard parking lots.

8. The Applicant does not seek relief from any dimensional minimums or maximums related to the parking lot.

ADDITIONAL FINDINGS OF FACT
AND CONCLUSIONS OF LAW

When determining whether to grant a variance in any given case, this Board must take into consideration the provisions of the Ordinance setting forth the criteria for the granting of variances. Accordingly, this Board must be guided by the provisions of Section 604.4 of the Ordinance, which provides in pertinent part as follows:

604.4. Variances - The Zoning Hearing Board shall hear requests for variances where it is alleged that the provisions of this Ordinance inflict unnecessary hardship upon the applicant. The Zoning Hearing Board may, by rule, prescribe the form of application to the Zoning Officer. The Zoning Hearing Board may grant a variance, provided that all of the following findings are made where relevant in a given case:

1. That there are unique physical 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 this Ordinance in the neighborhood or zoning district in which the property is located;
2. That because of such physical circumstances or conditions, there is not a possibility that the property can be developed in strict conformity with the provisions of this 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 zone or neighborhood 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.

In the instant case, the Applicant has made a sufficient showing to satisfy each of the 5 above-enumerated criteria for the granting of a variance. The foregoing Findings of Fact demonstrate that the physical dimensions, shape and characteristics of the lot present tangible obstacles for the development of the lot in a manner in keeping with the prohibition on front yard parking. Given the features of the terrain and of the lot's dimensions, the Applicant has no viable choice but to situate the retail parking surface in front of the building.

The Board therefore specifically finds that the granting of the requested variance would promote the declared purposes of the Zone in which the property is situated.

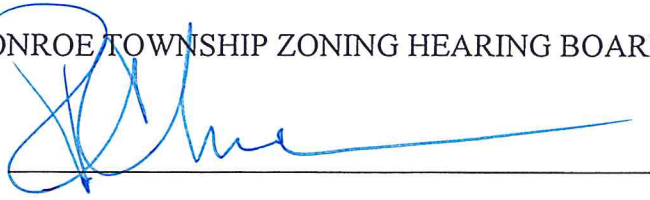
Therefore, based on the foregoing discussion and analysis, the Board grants the Applicant's request for a variance with respect to the construction of the proposed structure that utilizes the front yard of the property for retail customer parking use.

The Board also notes, and has so admonished the Applicant, that all other requirements of applicable Township Ordinances are to be complied with by the Applicant in the construction of the proposed structure and accessory facilities.

ALL MEMBERS CONCUR.

MONROE TOWNSHIP ZONING HEARING BOARD

By:



Richard Moore, Chair

Dated: July 24, 2020