



MOUNT JOY TOWNSHIP

• Lancaster County, Pennsylvania •

8853 Elizabethtown Road, Elizabethtown, PA 17022

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Minutes of the Regular Meeting of The Mount Joy Township Zoning Hearing Board Wednesday, May 3, 2023

1. Chairman Gregory R. Hitz, Sr. called the meeting to order at 7:00 P.M. in the Mount Joy Township Municipal Building located at 8853 Elizabethtown Road, Elizabethtown, PA 17022.
2. Meeting Attendance:
 - Members Present: James E. Hershey and Gregory R. Hitz, Sr.
 - Members Absent: None
 - Alternate Member Present: Robert F. Newton, Jr.
 - Township Representatives: Justin S. Evans, Township Manager/Zoning Officer
 - Lancaster County Court Reporter: Angela N. Kilby
 - Zoning Hearing Board Solicitor: John P. Henry, Esq. of Blakinger Thomas
3. A motion was made by Robert F. Newton, Jr. and seconded by James E. Hershey to approve and ratify the minutes of the April 5, 2023 meeting. All members present voted in favor of the motion.
4. Mr. Evans, Township Zoning Officer, stated that a Public Notice was published in the April 13, 2023 and April 20, 2023 editions of the LNP. The subject property was posted on April 21, 2023.
5. Procedural briefing by the Zoning Hearing Board Solicitor
6. Swearing-in of all potential witnesses by the Court Reporter
7. Old Business:
 - a. Zoning Case #210007: Rheems Retail Center, LLC

A motion was made by James E. Hershey and seconded by Robert F. Newton, Jr. to grant the applicant a six-month time extension for the previously granted approvals. All members present voted in favor of the motion.
8. Zoning Case #230004:
 - a. Applicant/Landowner: Spayd Properties LLC
 - b. Property Location: 2246 South Market Street, Elizabethtown, PA 17022; Tax Parcel ID #460-86151-0-0000
 - c. Zoning District: LI – Light Industrial District
 - d. Special Exception Request:
 - 1) Chapter 135, Article XVII, §135-163.G to expand a machine/welding shop

Jake Bair was present on behalf of Spayd Properties LLC along with Eric Vosburgh with Scenic Ridge Construction to present the application. Although they did not personally see the Zoning Officer's letter to the applicant dated April 6, 2023, a copy was provided at the hearing for their review.

Mr. Hitz asked about the school buses parked at the rear of the site as shown in an aerial image. The buses will be removed once the lease with the adjoining school bus company expires in the next two months. What about the storage containers on the lot? Most of the containers seen in the image are trailers and vehicles that are waiting to be repaired before being removed from the site.

Mr. Hershey asked for clarification on the proposed dimensions of the addition, specifically the furthest area to the rear. The 20' deep canopy on the end of the addition would be used to pull vehicles and equipment out of the elements. Almost all of the property is under impervious coverage so the overhang does not create additional lot coverage.

Mr. Newton asked the applicant to demonstrate compliance with the criteria established for the use in Section 135-242:

- Approximately 90% of all activities will take place inside, with limited trailer work and tire changes taking place outdoors if needed.
- Other than the vehicles and trailers kept outdoors as they await repair, all other materials will continue to be stored indoors.
- Trash and junk are put in a dumpster.

Additionally, the applicant testified that the height of the addition will be greater than 20' but less than 50'. The addition will be connected to the existing building. Typical hours of operation are 6:00 a.m. – 4:00 p.m. Monday through Thursday, with Friday hours fluctuating. Weekend work is limited. Mr. Hershey asked for more clarification regarding compliance with the requirement for all activities to take place in an enclosed structure. The applicant testified that all fabrication and welding is conducted indoors but activities like changing a tire occasionally takes place outdoors. The expansion will situate the building approximately 30' from the side yard, which has a 15' setback. The rear setback is 30' and the building will be approximately 60' from the rear setback line.

Mr. Newton asked if the property adjoins a residential zone. The applicant could not fully answer the question. Mr. Evans stated no since the railroad tracks are zoned industrially. The area currently occupied by parked busses will continue to be a stone lot for parking and circulation.

A motion was made by James E. Hershey and seconded by Robert F. Newton, Jr. to approve the application as presented, subject to the following conditions:

1. The Applicant and/or the owner(s) of the Property shall comply with all other provisions contained in the Ordinance for which relief has not been requested or granted.
2. The Applicant shall file for an obtain subdivision plan approval, or a waiver thereof, through the Mount Joy Township Planning Commission.
3. The Applicant shall obtain all applicable permits for the construction of the proposed improvements, including, without limitation, Pennsylvania Uniform Construction Code permits.
4. The Applicant and any representative of the Applicant shall comply with and adhere to the testimony and any evidence presented to the Board at the hearing held on May 3, 2023 except to the extent modified by conditions imposed by the Board herein.

All members present voted in favor of the motion.

9. Zoning Case #230005:

- a. Applicant/Landowner: Blessings of Hope
- b. Property Location: 191 Ridgeview Road S, Elizabethtown, PA 17022; Tax Parcel ID #460-57779-1-0001
- c. Zoning District: C-1 – Limited Commercial District
- d. Variance Requests:
 - 1) Chapter 135, Article XIII, §135-125.F(2) to exceed the maximum impervious coverage
 - 2) Chapter 135, Article XXIII, §135-299 regarding landscaping and screening requirements

The applicant was represented by attorney Dwight Yoder of Gibbel Kraybill and Hess, Anthony Petersheim of Lancaster Design Build, and Matthew Mack of Mack Engineering. Attorney Yoder stated that Blessings of Hope is the landowner of the subject property and wishes to reuse it as a location for their operations. He noted that the prior grocery store use is recognized as a nonconformity and provided an overview of the landscaping waiver basis.

The following exhibits were submitted into the record:

- A-1: aerial image
- A-2: images of existing truck entrance to site
- A-3: site plan

Mr. Petersheim provided background on Blessings of Hope's organizational mission. It is a local nonprofit connected with food distributors to receive food that may otherwise be headed for disposal. The food is within expiration, brought into the facility, and distributed to various food banks and other nonprofits serving the food insecure population. Volunteers and employees process the food for distribution. Volunteers receive vouchers to shop within the store. The vouchers can be donated to those in need.

A case was made for this operation being generally similar to a grocery store but with a different organizational model. Approximately half of the building will be used for food selection like a grocery store. The other half will be used for shipping and food preparation. The property will be improved in two phases to address the interior renovations first, then move onto the exterior and site. Phase 1 is almost entirely interior work with a small addition for a dehydrator room.

Trucks currently enter the site via a driveway on the western end and access the loading dock around the rear of the building. The proposed dock and truck maneuvering improvements at the northeast corner of the building will enhance operations and keep all vehicles on the subject property. This alleviates the current condition in which the rear access drive spans the property line. Shifting the dock doors to the east side of the building will also enable trucks to exit the site at the eastern end. Truck turning movements were shown on the proposed maneuvering area to demonstrate that the requested relief to exceed the 60% impervious coverage maximum is the least amount of relief necessary. The proposed coverage is approximately 70%.

A land development waiver was granted by the Township Planning Commission for the proposed site work subject to zoning approval and other conditions. The applicant referenced a prior zoning approval that enabled a different application to exceed the maximum lot coverage on this property. The second variance request pertains to the required landscaping along the eastern boundary. Since the adjoiner is an active farm, the concern is that any trees or shrubs could interfere with agricultural operations. The applicant received the Zoning Officer's letter dated April 6, 2023 and agreed to the proposed conditions.

Mr. Mack added that a stormwater management plan will be filed with the Township if relief is granted for the additional lot coverage. Mr. Hitz expressed concerns about the proposed relocation of the easternmost access point to the site. The applicant stated that the truck turning template demonstrates that tractor trailers will not cross the centerline of the road under the new configuration. The existing curb cut on that end will be filled in once the new access point is built. Corrugated concrete curbing will choke down the entrance width for passenger vehicles while allowing larger vehicles to turn over it.

The applicant anticipates approximately 8-10 trucks per day based on other similar facilities. It takes about 30-60 minutes to load or unload and overnight parking will be prohibited. 8-10 employees and roughly 50 volunteers per shift will staff the facility. Hours of operation are 7:00 am – 9:00 pm Monday through Friday and 7:00 am – 2:00 pm on Saturday.

Relief from the landscaping requirement is requested for the northern and eastern boundaries. Attorney Yoder believed that the lack of such buffer is a pre-existing nonconformity but the variance was requested in case of a different opinion. The buffer area will either be farmed or grassed as it has been traditionally. The applicant's intent is to allow the neighbor to continue farming the eastern portion of the undeveloped area. Planting trees near the farm field would cast shade on it and reduce yield.

A motion was made by James E. Hershey and seconded by Robert F. Newton, Jr. to approve the application as presented, subject to the following conditions:

1. The Applicant and/or the owner(s) of the Property shall comply with all other provisions contained in the Ordinance for which relief has not been requested or granted.
2. The Applicant shall comply with the conditions of approval associated with the land development plan waiver set forth by the Mount Joy Township Planning Commission at its February 27, 2023 meeting.
3. The Applicant shall obtain all applicable permits for the construction of the proposed improvements, including, without limitation, Pennsylvania Uniform Construction Code permits.
4. The Applicant and any representative of the Applicant shall comply with and adhere to the testimony and any evidence presented to the Board at the hearing held on May 3, 2023 except to the extent modified by conditions imposed by the Board herein.

All members present voted in favor of the motion.

The Board recognized an error in the approved minutes from the April 5, 2023 minutes. A motion was made by James E. Hershey and seconded by Robert F. Newton, Jr. to correct the property address, tax parcel, and zoning district for Case #230002. All members present voted in favor of the motion.

10. Zoning Case #230006:

- a. Applicant/Landowner: David E. Glick
- b. Property Location: 2233 Cloverleaf Road, Elizabethtown, PA 17022; Tax Parcel ID #461-29803-0-0000
- c. Zoning District: A – Agricultural District
- d. Variance Request:
 - 1) Chapter 135, Article XXII, §135-212.A(2) regarding the minimum setback for a poultry barn to an existing dwelling unit

Attorney Sheila O'Rourke, representing adjoining property owners Casey & Trevor Ammon at 2225 Cloverleaf Road, requested that the Board grant her clients party status to the application. A motion was made by Robert F. Newton, Jr. and seconded by James E. Hershey to grant party status to Casey & Trevor Ammon. All members present voted in favor of the motion.

Adjoining property owner Zachary Kindrew at 955 Milton Grove Road South requested party status to the application. A motion was made by Robert F. Newton, Jr. and seconded by James E. Hershey to grant party status to Zachary Kindrew. All members present voted in favor of the motion.

Mr. Glick stated that he received a notice of violation for operating a poultry house containing greater than 500 birds approximately 240' from the neighboring Ammon residence. He is raising approximately 2,700 birds. The required setback from the adjoining residence is 300'. The barn was built in April 2022 and the permit issued in December 2021. It has a concrete block foundation. He was not aware of the setback from an existing residence when the barn was constructed.

Approximately half of the barn is currently used and the operation is not quite at half capacity with laying chickens. The adjoining home was built in 2021 with completion near the end of that year. Mr. Glick's barn was built by his family with additional help. The adjacent Ammon and Kindrew homes are zoned in the Rural District.

Attorney O'Rourke began cross-examination of Mr. Glick by submitting the following exhibits into the record:

- Ammon-1: aerial image
- Ammon-2: aerial image
- Ammon-3: photos of subject barn and Glick property
- Ammon-4: photos of Ammon property
- Ammon-5: map showing approximate distance from Glick barn to Ammon dwelling
- Ammon-6: video recording of Glick barn
- Ammon-7: subdivision plan for Ammon lot
- Ammon-8: Section 135-212.A of Mount Joy Township Zoning Ordinance

Attorney O'Rourke's cross-examination produced the following responses from Mr. Glick:

- The property consists of approximately 25 acres and is owned by Mr. and Ms. Glick. They do not live at the subject property but their son and his wife, Gideon and Rebecca Glick do. The property was purchased in June 2021.
- There is a residential dwelling as well accessory and agricultural buildings on the property.
- Since purchasing the property, Mr. Glick built the structure on the farthest right of the farmstead as viewed when facing the property from the road. It is used for equipment and tobacco storage, built in summer 2021. The poultry house was built in April 2022 and the Ammon home was completed in December 2021.
- Other animals on the farm include four mules, a driving horse, 30 sheep, a farm dog, and other small animals.
- Hay, tobacco, and produce are grown on the farm.
- The property is served by a private well located between the house and barn in the front yard. An on-lot septic system is located near the house on the pond side.
- Photo A in Exhibit Ammon-3 depicts the poultry barn and is approximately 5,000 sf. (40' x 124'). An addition to the side and small diesel room are located nearby. The addition and diesel room were not separately permitted. The addition is used to store eggs with a cooling system run by the diesel motor. It uses a pulley and line shaft to circulate freon through the lines into a cooling plate with fan. The property does not have electricity.
- The poultry house has two floors and the chickens are currently housed on the bottom floor. Mr. Glick's intent is to fill the upper floor with chickens. Maximum capacity would utilize both floors.

- Photo B depicts an open-air poultry barn with vinyl curtain material on the side walls. These curtains can be raised and lowered. When raised, there is only a wire barrier to allow a breeze to blow through. The front doors are made of polycarbonate material that differs from the vinyl curtains. The first floor is concrete, and second floor is solid wood construction.
- The tobacco barn was constructed further away from the Ammons' home than was the chicken barn. The chicken barn siting was based on it fitting into the existing terrain and avoiding use of tillable ground.
- There is no ventilation or heating/cooling systems for the chicken barn other than the egg room. There are no fans, air filters, or alarm system.
- Photo C shows wood panels and a solar panel used in conjunction with an electric fence for the sheep pasture. The wood-paneled enclosure with a dirt floor was formerly used for dead chicken composting until about 2 months ago. Chicken composting is conducted near the barn on the side opposite of the Ammon home in a stone enclosure with dirt floor. He was not familiar with the state regulations for animal disposal. Dead chickens are removed daily at an average rate of approximately 1-2 per day but that can vary up to 5-6 per day. Testing for cause of death, including disease, is not conducted but periodic testing is done if known disease is in the area.
- He did not know the distance between the chicken barn and nearby wetlands, waterway, and pond.
- Gideon and his wife operate the chicken facility with occasional outside help.
- There are approximately 250 roosters in the barn and 2,700 total birds. This is characterized as a breeding facility where fertile eggs are produced and sent to a hatchery. Roosters are essential to the operation. The maximum capacity of the facility is up to 7,500 hens and roosters.
- Temperature is monitored through normal daily operation but not after dark.
- Chicken manure is spread on agricultural land; some on the subject property and some on other farms. Manure has not been cleaned out of the house since it was constructed, and the nutrient management plan has not yet been updated to reflect the new barn. The Conservation District does not have a copy of the plan. He does not have an odor management plan.

Mr. Glick's basis for the variance request is addressing the violation notice and lack of awareness of the required setback at the time of permit application. Mr. Hershey asked Mr. Evans if the setback was communicated to Mr. Glick prior to building the barn. Mr. Evans stated that they had been working together for several months to plan out the proposed improvements to the property, including the tobacco and chicken barns. Applications for the adjoining residences were filed prior to the barn permit application. However, Mr. Evans did not apply the additional setback from existing residences at the time of application and did not ask Mr. Glick how many birds would be housed in the barn. Complaints from the Ammons shortly after construction included noise and other effects. Subsequent discussions over the later months between the parties focused on an evergreen buffer after construction.

Attorney Henry stated that his interpretation of the Zoning Ordinance leads to the need for a variance of Section 135-212.A(1) rather than subsection (2) as requested in the application. Subsection (2) contains the criteria. Mr. Glick requested to amend the application for a variance under Section 135-212.A(1) rather than 135-212.A(2). A motion was made by Robert F. Newton, Jr. and seconded by James E. Hershey to accept the amendment. All members present voted in favor of the motion.

Mr. Hershey asked about what appears to be trees planted near the Ammon property. Mr. Glick planted 60 trees several weeks prior to the hearing to help establish a buffer from the neighbor. He stated that it is unlikely he could move the building, which is why he has requested relief from the setback. Dimensions to the adjoining dwelling were not provided with the permit application.

Attorney O'Rourke submitted Exhibit Ammon-9, a copy of the permit file for the Glick barn. Setback dimensions were not detailed on the plot plan and no information regarding the number of birds was provided. Mr. Glick noted that a barn of this size would house more than 500 birds. She asked what types of trucks visit the barn. Straight trucks pick up the eggs once a week and either a straight truck or a tractor trailer delivers feed. He did not know the dimensions of the vehicles as they vary. Sometimes a tractor trailer may need to back onto the roadway to access the property.

The cross-examination was completed. Mr. Glick reiterated that he did not know about the setback when he applied for the permit or as he constructed the barn. Mr. Hitz asked what kind of noise is being complained about. Mr. Glick was unsure, and Mr. Evans noted he brought that issue up when discussing the neighbor complaints.

Mr. Kindrew testified that the noise and chicken-related debris flying onto his property are concerns for his growing family. They began construction on his home in November 2021 and completed it in March 2022. The noise is a constant droning from the chickens with screeching roosters. His home is located more than 300' from the barn. Mr. Kindrew stated his opposition to the application then left the hearing.

Attorney O'Rourke called Trevor Ammon for his testimony. Mr. Ammon confirmed ownership and purchase of their property located at 2225 Cloverleaf Road. He and his wife began construction of their home in August 2021. Occupancy was granted on December 9, 2021. The chicken house was not built at the time that they moved into their home. They determined the approximate distance between their home and Glick's barn with a range finder and then by using Google maps.

Their concerns with the operation of the poultry house include noise. The chickens can be heard from within the house when the windows are closed. Noise is in the form of constant crowing and roosters calling at most hours. Noise from the diesel motor for the egg storage sounds like an engine without a muffler. The noise is still present even when the plastic siding is down. The sides are rolled up by spring. The video marked as Exhibit Ammon-6 demonstrated the noise produced by the barn. It was taken around 9:00 or 10:00 a.m. in September 2022 by Ms. Ammon from their kitchen with the kitchen window open. The constant noise is disruptive to their household.

Odor is present throughout the year, but mostly in the hotter, humid months. They keep their windows closed due to the noise and odor. Mr. Ammon noted that the wind typically blows from the Glick property towards their home. Chicken feathers periodically blow onto their property, mainly in the summer months. The feathers are generally scattered across the backyard and deck like falling leaves. Dust is also an issue, and he can discern the difference between the white, yellowish substance and typical dirt. This started after the poultry operation began and covers the same area as the feathers. He is concerned with the health hazards from this type of dust, especially with their young child. Mr. Ammon also noticed an increased number of flies.

Referring to photos in the exhibit, Mr. Ammon noted that chicken carcasses have been found near their property. He assumed that foxes or hawks may have transported the dead chickens. Exhibit Ammon-7 highlighted the wetlands located on the Ammon and Kindrew properties directly adjacent to the Glick property. Although the wetlands were not identified for the Glick property through the subdivision plan that created their home lot, it is assumed that they extend across the boundary. The poultry house is elevated above the pond, wetlands, and stream, creating runoff concerns for these features.

Mr. Ammon believes that the open-air design of the poultry house increases the impacts of dust, odor, and noise on their home since there is no physical barrier. The elevation and orientation of the barn also intensify these impacts as well as the runoff concerns. He does not believe that the screening trees planted by Mr. Glick will help the situation since they are located approximately 200' from the barn and are not high enough. Mr. Ammon testified that the barn adversely affects their health, safety, and welfare due to the poultry dust and odor that impair the use of their property. The Ammons want Mr. Glick to implement structural measures like a sound wall or extended soffits with vegetation below. Mr. Ammon noted that moving the barn another 40' away to comply with the 300' setback likely does not eliminate the impacts of the barn on their home.

Mr. Hitz asked Mr. Glick if he was opposed to constructing a sound wall. He is not opposed but has not been convinced that it will achieve the desired effect, especially for the cost. Mr. Glick did not fully explore the cost of a wall but it could be around \$50,000 depending on the type of construction. He is open to suggestions and is willing to implement a solution that is in everyone's best interest.

Mr. Ammon added that the method of disposing of the deceased birds raises additional health concerns for his family and may compromise the ability for Mr. Glick to provide adequate mitigation without retrofitting the barn as a fully-enclosed structure. However, the lack of electricity on the property makes ventilation difficult.

The Board entered executive session with their Solicitor at 10:01 p.m. and returned to the meeting room at 10:21 p.m. The testimony was closed shortly thereafter.

Public comment was offered by the following:

- Bobbi Thompson, 8226 Elizabethtown Road – Spoke to the odors, noise, and other side effects of an agricultural community. She also felt that the Township staff who issued Mr. Glick's permit should be responsible for the situation.
- Dan Tracy, Sheaffer Road – Noting his experience as a former audio engineer and now a farmer, stated that a sound wall would not be effective in mitigating the Ammons' concerns. Additionally, his understanding is that composting of dead birds and Mr. Glick's method of manure processing are correct. Responsibility falls on the Township officials who issued the permit.
- Ken Landvater, 2373 Stauffer Road – Spoke about the no-win situation that the rural areas are facing with encroaching development.

- Audrey Landvater, 2373 Stauffer Road – Stated that the prevailing wind is west to east as opposed to Mr. Ammon’s claim that the wind comes at their home from the east. The landfill and trucks accessing it create a lot of dust that could be confused with what is produced by Mr. Glick’s barn.
- Gail Forry, 1890 Ridge Road – Felt that the objector has unrealistic expectations of living in an agricultural area and that planting 60 trees should be sufficient.

Mr. Hitz stated that the Board will not make a decision tonight. Attorney Henry noted that the transcript is needed from the court reporter before the parties can issue Findings of Fact and Conclusions of Law.

Attorney O’Rourke requested that the Board leave the record open and continue the hearing for further testimony.

A motion was made by Robert F. Newton, Jr. and seconded by James E. Hershey to continue the hearing to 6:00 p.m. on Tuesday, June 20, 2023. All members present voted in favor of the motion.

11. Next regularly scheduled hearing will be held Wednesday, May 3, 2023, beginning at 7:00 P.M.
12. A motion was made by James E. Hershey and seconded by Robert F. Newton, Jr. to adjourn the meeting at 10:50 p.m. All members present voted in favor of the motion.

Respectfully Submitted,



Justin S. Evans, AICP
Township Manager/Zoning Officer

For: Robert F. Newton, Jr., Secretary
Mount Joy Township Zoning Hearing Board