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Sep 06 2023

ZHB Case # 230014

MOUNT JOY TOWNSHIP

Mount Joy Township

8853 Elizabethtown Rd

Elizabethtown, PA 17022

Phone: (717)367-8917 - Fax: (717)367-9208

Zoning Hearing Board Application

1. Applicant Information

Name: 1376 Campus Road Associates, LLC

Address: 100 Front Street, Suite 560

City/State/Zip: West Conshohocken, PA 19428

Phone: 717.581.3730

Fax: _____

E-mail: cshank@mcneeslaw.com

2. Landowner Information (if different from the Applicant)

Name: The Raymond H. Myer Testamentary Unified Credit Trust, a Pennsylvania Testamentary Trust, and The Estate of Elizabeth Myer

Address: 1376 Campus Road

City/State/Zip: Elizabethtown, PA 17022

Phone: _____

Fax: _____

E-mail: _____

3. Property Information

Property Address: 1376 Campus Road

City/State/Zip: Elizabethtown, PA 17022

Existing Use: Vacant land

Proposed Use: See Narrative

Total Property Area (Sq. Ft. or Acres): 128 acres

FOR TOWNSHIP USE ONLY

Date Application Received: September 6, 2023

Date Application to be heard: October 4, 2023

Tax Parcel #: 460-72608-0-0000

Zoning District: Medium Density Residential (R-2)

Application Denied/Approved: _____

4. Request for Special Exception

Section(s) of Zoning Ordinance for which a Special Exception is requested:

Provide an explanation of your proposal, particularly, why you need a special exception and for what type of use the special exception is being requested for:

This site is suitable for a Special Exception Use because:

How will the request affect adjacent properties? (Dust, noise, fumes, odors, glare, increased traffic, character of the neighborhood etc.):

5. Expansion of Special Exception Uses

Are there any existing nonconformities on the lot, if so list them:

Existing and proposed square footage of the structure:

Percentage of Expansion:

Existing front, side and rear yard setbacks:

Proposed front, side and rear yard setbacks:

6. Request for a Variance

Section(s) of the Zoning Ordinance for which a Variance is requested:

Section 135-105(B) and Section 135-105(C)

Why do you need a variance and what is your proposed alternative from the requirements of the Township Zoning Ordinance?

See attached narrative.

What physical characteristics of the property prevent it from being used for any of the permitted uses in your zoning district? (Topography, size and shape of lot, environmental constraints, etc.):"

See attached narrative.

Explain how the requirements of the Zoning Ordinance would result in difficulties or undue hardships in the use of your property, buildings and/or structures:

See attached narrative.

Explain how the granting of a variance will not be a substantial detriment to the public good or a substantial impairment of the intent and purpose of the Zoning Ordinance:

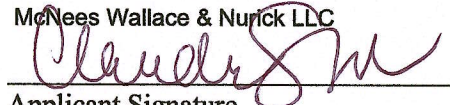
See attached narrative.

7. Certification

I/we, the undersigned, do hereby certify that:

1. The information submitted here in is true and correct to the best of my/our knowledge and upon submittal becomes public record.
2. Fees are not refundable, and payment does not guarantee approval of the Zoning Hearing Board Application.
3. All additional required written graphic materials are attached to this application

McNees Wallace & Nurick LLC



Applicant Signature

Claudia N. Shank, Esq., Counsel for Applicant

September 6, 2023

Date Signed

Applicant's Name (Printed)

Landowner Sign (if different from Applicant)

Date Signed

Landowner's Name (Printed)

**NARRATIVE IN SUPPORT OF
MOUNT JOY TOWNSHIP
ZONING HEARING BOARD APPLICATION**

I. Introduction

1376 Campus Road Associates, LLC (“Applicant”) is the equitable owner of a ±128-acre tract of land commonly known as 1376 Campus Road, located southwest of Campus Road in Mount Joy Township (the “Township”), Lancaster County, Pennsylvania, identified as Lancaster County Tax Parcel ID No. 460-72608-0-0000 (the “Property”). The Property is in the Township’s Medium Density Residential Zoning District (“R-2 Zone”) and is currently undeveloped. Applicant intends to comprehensively develop the Property with a mix of residential uses as depicted on the Final Subdivision & Land Development Plan for 1376 Campus Road – Phase 1, prepared by RGS Associates, Inc., which has been conditionally approved by the Township (the “Proposed Development”). In connection therewith, Applicant proposes to subdivide a small lot (the “Lot”) from the Property (“Proposed Subdivision”) which does not comply with the minimum lot and area requirements established by the Mount Joy Township Zoning Ordinance of 2012, as amended (“Zoning Ordinance”).

II. Background/ Lot Details

The Lot is a small stub of the Property with frontage along Woodland Avenue, which appears to have originally been intended to serve as a future street extension of Ridgeview Avenue, as depicted on the aerial map attached hereto as Exhibit A. The Lot is adjoined by single-family dwellings on both sides. Applicant proposes to align the rear property line of the Lot with the rear lot lines for the adjoining dwellings, giving the Lot a total area of approximately 6,779.74 square feet, a width of approximately 50.96 feet, and a depth of 136 feet, as shown on the site plan attached hereto as Exhibit B.

The Property is currently the subject of litigation between the Applicant and Ryan M. and Liesel K. Davidson (the “Davidsons”). The Davidsons own the residential dwelling to the south of the Lot, commonly known as 101 Woodland Avenue. The Davidsons initiated litigation against the Applicant by filing a Praecipe for Writ of Summons in the Lancaster County Court of Common Pleas on January 27, 2020, being docketed to CI-21-00523 (the “Litigation”). As of the date of this application, the Davidsons have not filed a complaint with the Court setting forth their claims against Applicant. It is Applicant’s understanding, however, that the Davidsons intend to dispute title to the Lot. Applicant has no plans to construct anything on the Lot and desires to subdivide it from the remainder of the Property so that the Proposed Development can proceed while matters related to ownership of the Lot are separately resolved through the Litigation. If the zoning relief described herein is granted, Applicant is willing to agree as a condition of approval to record a deed restriction against the Lot prohibiting the construction of a principal structure on the property.

III. Request for Relief / Discussion

A. Variance from Section 135-105(B) of the Zoning Ordinance to create a lot which does not meet the minimum lot area requirements.

Section 135-105(B) of the Zoning Ordinance states that the minimum lot area for a lot in the R-2 Zone is between 10,000 and 40,000 square feet, depending on the type of structure intended to be built on the lot. The proposed Lot contains 6,779.74 square feet. The Lot is bound by residential properties to the north and south and by Woodland Avenue to the west. The adjoining residential properties both have a rear lot line which runs along a common bearing. From a planning perspective, it is logical for the rear property boundary of the proposed Lot to run along the same bearing, resulting in a lot which does meet minimum lot area requirements. Since no principal structures (such as a dwelling) will be constructed on the Lot, as enforced by the proposed deed restriction, Applicant believes that it is appropriate to permit a lot which has an area of less than 10,000 square feet.

B. Variance from Section 135-105(C) of the Zoning Ordinance to create a lot which does not meet the minimum lot width requirements.

Section 135-105(C) of the Zoning Ordinance states that the minimum lot width for a lot in the R-2 Zone is between 50 and 75 feet. Like the minimum lot area requirements, the minimum lot width requirements are based on what will be built on the property. Single-family detached dwellings and nonresidential principal buildings require a minimum lot width of 75 feet, while semidetached and two-family dwellings require a minimum lot width of 50 feet. As previously stated, no construction is proposed on the Lot, which has a width of 50.96 feet, and thus it does not fit into either of these two categories. Applicant cannot adjust the width of the Lot since the Lot is bound on both sides by properties owned by third parties. Moreover, the Lot width does comply with the minimum lot width requirements for semidetached and two-family dwellings. If 50 feet is an adequate lot width for a duplex, it stands to reason that it is likewise adequate for a lot on which principal structures will be prohibited.

IV. Variance Criteria

Section 135-383(C) of the Zoning Ordinance provides that the Board may grant a variance if certain findings are made where relevant in a given case. The Applicant's requested variances are necessitated by the Litigation. Applicant did not create the hardship giving rise to its requests. In addition, the Applicant is willing to deed restrict the Lot as set forth above. Accordingly- the concerns that minimum lot width and area restrictions are traditionally designed to address- such as limiting impervious coverage, ensuring appropriate area for placement of a driveway and access, providing adequate space for utility services, etc.- do not apply to the Lot. Further, the variance will not alter the essential character of the neighborhood or R-2 Zone, nor will it substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.

Finally, in Hertzberg v. Zoning Bd. of Adj. of the City of Pittsburgh, 721 A.2d 432, 47-48 (Pa. 1998), the Pennsylvania Supreme Court held that, "[w]hen seeking a dimensional

variance within a permitted use, the owner is asking only for a reasonable adjustment of the zoning regulations” and, as a result, “the quantum of proof required to establish unnecessary hardship is . . . lesser when a dimensional variance, as opposed to a use variance, is sought.” The requested variances are dimensional in nature and represent reasonable adjustments of the applicable regulations. Given the character of Applicant’s request, and the lower level of proof required to establish an unnecessary hardship when dimensional variances are sought, it is appropriate for the Board to grant the requested relief.

V. CONCLUSION

For the foregoing reasons, the Applicant respectfully asks that the Board grant the requested relief.

EXHIBIT A

Aerial Map

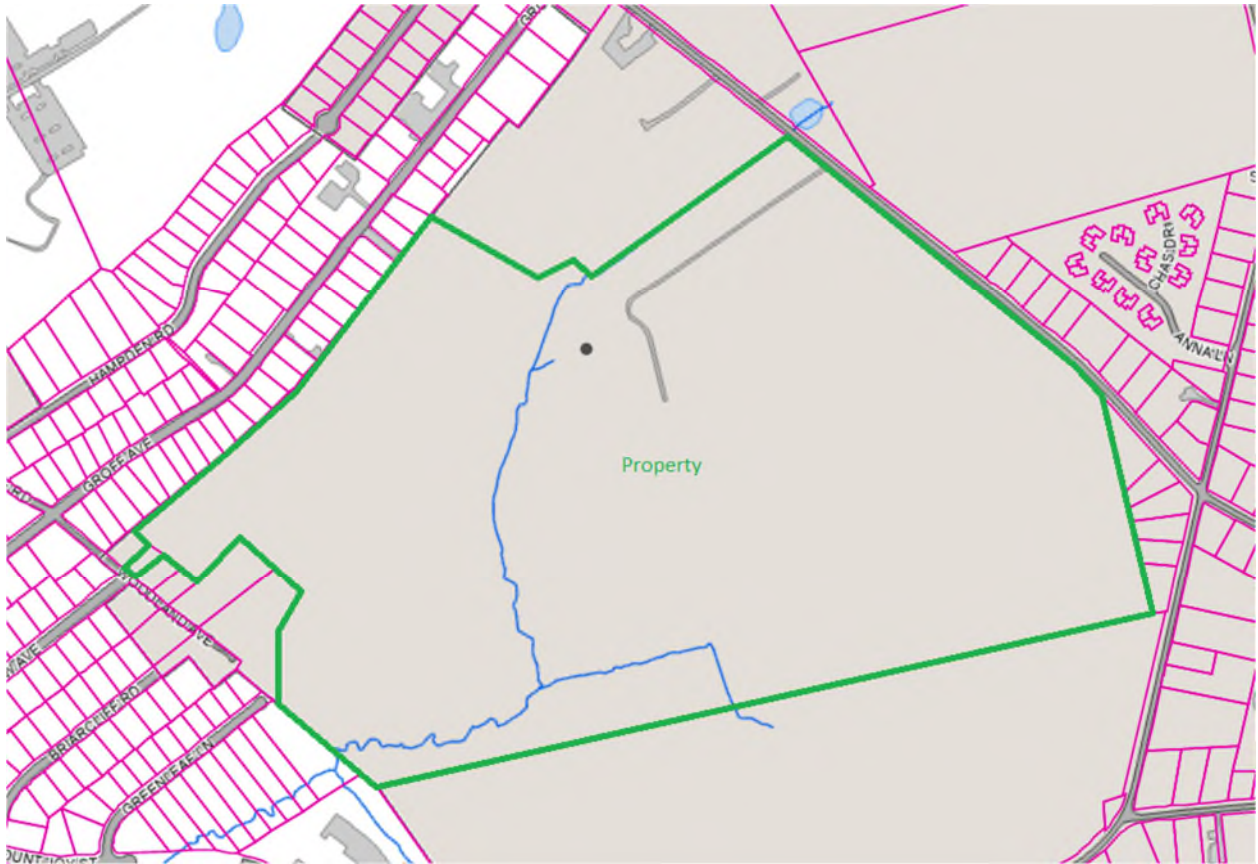


EXHIBIT B

Site Plan



MOUNT JOY TOWNSHIP

• Lancaster County, Pennsylvania •

8853 Elizabethtown Road, Elizabethtown, PA 17022

717.367.8917 • 717.367.9208 fax

www.mtjoytwp.org

September 14, 2023

1376 Campus Road Associates, LLC
100 Front Street, Suite 560
West Conshohocken, PA 19428

Certified Mail # 9407 1118 9876 5413 8912 64

The Raymond H. Myer Testamentary Unified Credit Trust
695 Three Feathers Road
Bozeman, MT 59718

Certified Mail # 9407 1118 9876 5413 89118 37

The Estate of Elizabeth Myer
1376 Campus Road
Elizabethtown, PA 17022

Certified Mail # 9407 1118 9876 5413 8919 29

Re: Proposed Subdivision of a Non-Building Lot
Property Located at 1376 Campus Road, Elizabethtown, PA 17022
Tax Parcel Account #460-72608-0-0000
Case #230014

Dear Sir or Ms.:

I have reviewed the above-referenced zoning hearing application submitted to Mount Joy Township on September 6, 2023. The hearing for the application is scheduled for **6:00 P.M. on Wednesday, October 4, 2023** at the Mount Joy Township Municipal Building located at 8853 Elizabethtown Road, Elizabethtown, PA 17022. I offer the following comments on the application:

- I have printed off an aerial image of the subject property's area pertinent to the application for the Zoning Hearing Board members.
- The subject property is located within the R-2, Medium Density Residential District, consisting of approximately 128 acres. It is currently undeveloped and used agriculturally, however, a preliminary subdivision plan for a residential development has been conditionally approved by the Township Planning Commission.
- The applicant proposes to subdivide a 0.16-acre non-building lot from the subject property in response to pending litigation.
- The applicant is seeking and has requested approval of the proposed project via Chapter 135 of the Code of Ordinances of the Township of Mount Joy, i.e. the Mount Joy Township Zoning Ordinance of 2012. The following variance requests have been made pursuant to Chapter 135:

(1) Chapter 135, Article XI, §135-105.B regarding minimum lot size

(2) Chapter 135, Article XI, §135-105.C regarding minimum lot width

In the event the Mount Joy Township Zoning Hearing Board would approve the application, the Township recommends the following conditions be applied to any approvals:

1. Applicant and/or the owner(s) of the subject property shall comply with all other provisions contained in Chapter 135 of the Code of Ordinances of the Township of Mount Joy for which relief has not been requested or granted.
2. Applicant shall file and gain approval of a subdivision plan through the Mount Joy Township Planning Commission.

3. Applicant and any representatives of the Applicant shall comply with and adhere to the testimony and any evidence presented to the Mount Joy Township Zoning Hearing Board at the hearing held on October 4, 2023 and any continued hearings, if applicable, except to the extent modified by the conditions imposed by the Mount Joy Township Zoning Hearing Board herein.

The Township reserves its right to revise, amend and/or extend the aforementioned list of recommended conditions of approval based upon the testimony presented at the hearing. Please note that these conditions are a recommendation from the Township. If the Mount Joy Township Zoning Hearing Board approves the application, they may change or add conditions if they determine such actions are appropriate based on the testimony and evidence presented and submitted at the hearing.

Should you have any questions concerning this matter, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "Justin S. Evans". The signature is written in a cursive, flowing style.

Justin S. Evans, AICP
Township Manager/Zoning Officer
Mount Joy Township

Copy: 1376 Campus Road, LLC – First Class Mail
Claudia Shank, Esq. – Email
MJT Zoning Hearing Board
File

Enclosures

