



# MOUNT JOY TOWNSHIP

• Lancaster County, Pennsylvania •

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## Minutes of a Special Meeting of The Mount Joy Township Zoning Hearing Board Wednesday, July 26, 2023

1. Chairman Gregory R. Hitz, Sr. called the meeting to order at 6:00 P.M. in the Elizabethtown Area Middle School Auditorium at 600 East High Street, Elizabethtown, PA 17022.
2. Meeting Attendance:
  - Members Present: James E. Hershey, Gregory R. Hitz, Sr., and Robert F. Newton, Jr.
  - Members Absent: None
  - Alternate Member Present: Roni K. Clark
  - Township Representatives: Josele Cleary, Esq., Township Solicitor and Justin S. Evans, Township Manager/Zoning Officer
  - Lancaster County Court Reporter: Ray Danyo
  - 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 June 7, 2023 and June 20, 2023 meetings. All members present voted in favor of the motion.
4. Render a decision on the following case:  
Zoning Case #230006: [Hearings held May 3, 2023 and June 20, 2023]
  - 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(1) regarding the minimum setback for a poultry barn to an existing dwelling unit

Solicitor Henry gave a brief background of the case and prior hearings, noting that a written decision was prepared for the Board after consulting with each member individually.

Mr. Newton stated that the testimony shows that the applicant satisfied all of the criteria requirements for a de minimus dimensional variance of a reduced setback for a poultry house. Furthermore, an opponent to the application testified and agreed that moving the barn an additional 60 feet to the east would not change the situation.

A motion was made by James E. Hershey and seconded by Robert F. Newton, Jr. to grant approval of the requested variance of §135-212.A(1). All members present voted in favor of the motion.

A motion was made by James E. Hershey and seconded by Robert F. Newton, Jr. to accept the written decision for the case. All members present voted in favor of the motion.

5. Zoning Case #230003: **[Hearing continued from June 7, 2023]**

- a. Applicant/Landowner: Elizabethtown Mount Joy Associates, L.P. (a.k.a. Elizabethtown Associates, Inc. and Elizabethtown Associates)
- b. Property Location: Generally located at the northeast corner of the intersection of Cloverleaf Road and West Main Street, consisting of the following two tax parcels:
  - 1) A parcel fronting upon Cloverleaf Road, Mount Joy, PA 17552; Tax Parcel ID #461-00486-0-0000
  - 2) A parcel fronting upon W. Main Street and Cloverleaf Road, Mount Joy, PA 17552; Tax Parcel ID #461-82176-0-0000
- c. Zoning District: C-1 – Limited Commercial District
- d. Variance Requests:
  - 1) Chapter 135, Article XIII, §135-122 to permit a shopping center in the C-1 District
  - 2) Chapter 135, Article XIII, §135-122 to permit vehicular fuel pumps in the C-1 District
  - 3) Chapter 135, Article XXII, §135-256.A(1) to permit a shopping center in excess of 50,000 sf. in the C-1 District
  - 4) Chapter 135, Article XXII, §135-256.A(3) to permit vehicular fuel pumps in the C-1 District

Solicitor Henry provided a procedural briefing for the continued case. The hearing resumed from the June 7, 2023 meeting with Attorney Craig (Rob) Lewis and witness Brian Seidel providing testimony.

- 135-256.B: Buffer and landscaping requirements – The plan complies with the provisions of this section, although the buffer requirements for a shopping center adjacent to a residential district are not applicable. The landscaping plan is found in Exhibit A-9.
- 135-256.C: Traffic control, access and study requirements – Most of this section was discussed with Mr. Creasy at the previous meeting. The subject property is adjacent to a collector or arterial road and will be served by at least two points of access. A bus shelter is proposed in the application and preliminarily approved by the Southcentral Transit Authority. Exhibit A-11 depicts these improvements. The project satisfies the park-and-ride requirement since it is located within one mile of the Route 283 interchange. Pedestrian corridors are shown on the plans in front of and adjacent to the proposed buildings. Sidewalks are shown along the access drives and parking areas.
- 135-236.D: Building design and architectural considerations – The application addresses these criteria and complies with the code provisions as shown on Exhibits A-13, A-14, and A-15. Architectural renderings depict the elevations of the in-line shopping center and two individual tenants.
- Mr. Seidel spoke to the planning perspective on transportation improvements and the Township’s Act 209 Traffic Impact Fee program. Act 209 enables municipalities to collect fees from developers for traffic improvements beyond the scope of an individual project. The land use assumptions component identifies future growth of the Township and the resultant vehicle trips. This project would be subject to Mount Joy Township’s Impact Fee program. Existing problems including congestion on Cloverleaf Road and traffic affecting local neighborhoods can be addressed with these fees. The Norlanco Drive extension is part of implementing the Act 209 and other plans.
- Granting the requested relief would provide for the reasonable development of the property. The uses proposed in the application are either permitted in the underlying C-1 District or the MU and C-2 Districts adjacent to the parcel.
- The physical conditions of the property warrant relief from the strict application of the district regulations. C-1 permits a minimum lot size of 10,000 sf. while the subject property is over 960,000 sf. The property is surrounded by commercial uses in the corridor and is within a growth area on the Township and regional planning maps. Those physical conditions were not created by the applicant, and the applicant is requesting the minimal amount of relief to develop the property. Building coverage is substantially less than what is permitted in the C-1 District.

- The Norlanco Drive extension will help with traffic flow in the area. Additionally, the Township's Act 209 documents projected building area approximately four times the amount being proposed.
- If granted, the requested relief would not be detrimental to the public health, safety, and welfare. The ordinance contemplates shopping centers in the C-1 District and development of the property as such would enable a more cohesive design versus fragmented development on smaller parcels. The application does not propose a connection to Ridge Run Road, which was identified in the prior meeting as a concern.
- If granted, the requested relief would not impair the use of surrounding properties. A survey conducted for the regional comprehensive plan identified the desire for more modern-day shops and dining without making a long drive. The survey also pointed out the need for traffic improvements.

Mr. Hitz referenced page 6 of the application addendum, which states that adult-oriented uses and mobile home parks are not being proposed. Can the statement be amended to say they will never be proposed? Attorney Lewis concurred.

Carol Hess, party to the hearing, asked Mr. Seidel to clarify statements about the C-2 and Mixed Use Districts surrounding the property. What parcels of land surround the property? What about the surrounding agricultural uses? Mr. Seidel stated that the property to the north is the MU District, on the other side of Cloverleaf Road is C-2 General Commercial District, opposite Route 230 is the C-2 District, and agricultural property to the east at the proposed Norlanco Drive extension. He clarified that the C-1 District contemplates shopping centers while also prohibiting them, which is a discrepancy in the Zoning Ordinance.

Ms. Hess asked for the source of the survey he cited. It is found on the Township website and is approximately 8 pages, titled Northwest Lancaster County Regional Plan Public Survey Comments from May 1, 2023. It is a summary of 92 comments received during the survey period per the document. Otherwise, Mr. Seidel did not have further information about the survey.

Jay Brubaker, party to the hearing, asked if the traffic impact fees would be used on Ridge Run Road since it may be impacted by the development. It connects Route 230 with Cloverleaf Road. Mr. Seidel stated that the developer is obligated to pay the fees to the Township, which goes into a fund allocated for traffic improvements as seen appropriate by the Township.

Mr. Brubaker asked if there is a guarantee that the agricultural ground will not be developed. Mr. Seidel said that this application does not propose to develop the Agriculturally-zoned property and there are no current plans to do so.

Ms. Hess asked for further clarification on the hardship criteria for the requested variances. Mr. Seidel reiterated the applicant's position that the site's large size and limited lot frontage is a physical constraint to creating multiple individual lots under the C-1 District standards. Additionally, the C-1 District is intended to be located in non-growth areas while the subject tract is in a growth area. He noted that the survey being referenced was prepared by the Lancaster County Planning Department for the regional plan.

Mr. Newton asked the applicant to comment whether the site could be developed as a bank or other financial institution per the C-1 District's list of permitted uses. Mr. Seidel said that it could, but such a use would occupy less than an acre of the entire property. A bank use could be integrated into a shopping center as well. Mr. Newton asked the same question about business or professional offices, municipal uses, and personal service shops. He spoke to concerns with use variances where the ordinance permits retail sales in the subject tract's zoning district. Mr. Seidel reiterated that the shopping center standards reference the C-1 District and that the site's characteristics are more suitable for the C-2 District. It is adjacent to C-2 where vehicular fueling stations are permitted, which is part of the requested relief for the proposed development.

Mr. Hershey asked if testimony was given regarding compliance with Section 135-256.A(4). Attorney Lewis noted that the plans reference compliance with the 20' setback between buildings and that Mr. Smeigh testified as much at the previous hearing.

The applicant concluded its testimony. The Township did not present any witnesses.

Carol Hess, 210 Ridge Run Road, provided testimony as a party to the hearing. Her family's farm adjoins the applicant's agricultural property to the east of the site. As a lifetime member of the community and owner of a preserved farm, she expressed opposition to the application. This agricultural area is a buffer between Mount Joy and Elizabethtown. Further development is contrary to this principle. Specifically, the application is contrary to the purpose of the C-1 District as stated in the Zoning Ordinance. Residential neighborhoods and working farms surround the site to the east.

She outlined the hardship criteria for variances and how the applicant has not adequately addressed them. The property can be developed with strict conformity to the ordinance standards. Impacts to the surrounding area include noise, traffic, crime, pollution, and chain stores competing with existing neighborhood stores. Additionally, the requested relief is not the minimum necessary to develop the site. It is more like a request to rezone the property to C-2. Ms. Hess' position is that the applicant has not demonstrated adequate hardship for the requested variances.

Neither the applicant nor the Township cross-examined Ms. Hess.

Jay Brubaker, 382 Ridge Run Road, provided testimony as a party to the hearing. He is also a lifelong resident of the area and opposed granting the variances.

Carol Hess spoke about the proposed traffic signal in Rheems and the potential for more backups at these key intersections.

Testimony was concluded for the hearing. Attorney Lewis requested that applicant's exhibits A-1 through A-22 be entered into the record. A-22 is a large aerial map on poster board used as a demonstrative exhibit.

The Board entered into a period of public comment with the following:

- Jan Parola, 1449 Ridge Road – Felt that the contents of the shopping center is a redundancy of what exists in the area and will only contribute to more traffic congestion. Also, she did not feel that the public survey comments were fully representative of the community's sentiments.
- Donna Bucher, 680 Cloverleaf Road – Concerned with adding more traffic to Cloverleaf Road where her small business is located. It is already very difficult to make a left turn out of her property at the corner of Cloverleaf Road and Schwanger Road.
- Hope Wisler, 317 Ridge Run Road – Questioned how many times the applicant has made applications for this property over the years of owning it. Opposed to allowing C-2 development on the site due to impacts on the surrounding area. She also challenged the applicant letting the property go fallow and felt that the proposal is more appropriate for the C-2 land they own on the other side of Cloverleaf Road.
- Gary Luft, 2588A Mount Pleasant Road – Questioned why the traffic study stopped at Ridge Run Road versus going into Mount Joy Borough. What will the impacts be on the Ridge Run Road/Schwanger Road intersection, water quality, and flooding?
- Courtney Ranck-Cameron, 2151 Sheri Lane – Believes that the applicant's intent for their remaining agricultural lands should be considered in this application. She provided the example of a day care or recreation facility as uses permitted in the C-1 District that are needed in the community. The survey results referenced in the testimony could be interpreted differently while stating that one of the top recommendations for making great places is improving downtown Elizabethtown and promoting redevelopment and infill.
- Kevin Brubaker, 382 Ridge Run Road – Concerned that local businesses will not be in the C-2 development as opposed to C-1. He was also unsure how the storm sewer pipe under Route 230 can convey another 22 acres of development.
- Hope Wisler, 317 Ridge Run Road – Returned to speak about the applicant's business track record per online research. Attorney Lewis objected to Ms. Wisler's attack on the applicant's reputation.

Mr. Hitz asked about receiving copies of Exhibit A-22. Attorney Lewis stated that there is a single copy of this large illustration but would send the township an electronic version.

Attorney Lewis provided closing statements, including assurance that many of the public's concerns will be addressed during the land development process. He reiterated the position that the subject property contains unique features upon which the Zoning Ordinance imposes a hardship. The applicant's testimony establishes a case for the development of a shopping center as a reasonable use of the property. This is a scaled-down version of what could be developed on the applicant's contiguous properties and is less than projected in the Township's Land Use Assumptions Reports. Furthermore, all of the bulk and area requirements have been met by the proposal.

Solicitor Cleary provided closing statements, beginning with a thank you from the Board of Supervisors for the Zoning Hearing Board's hard work. The Township is not taking a position on the application because of their trust in the Board conducting their proper diligence. In case the Board grants relief to the applicant, the Township requests that the proposed conditions in Exhibit A-6, at minimum, be imposed upon the decision so they cannot be challenged by the applicant. The Township wished to clarify statements that the municipality is at fault for not fixing the issues on

Cloverleaf Road and at the Route 283 interchange, both of which are PennDOT highways. Considerable time and resources were expended over the years to pursue a remedy.


Carol Hess also thanked the Zoning Hearing Board for their time on the case. She reiterated the importance of the word hardship in making a decision. If the application is approved, the hardship then becomes the community's to bear.

The record was closed for a brief recess to coordinate the procedure leading up to and a date at which to render a decision on the case at 7:46 p.m. The Board came back on the record at 8:03 p.m.

It was announced that the parties must submit their Findings of Fact and Conclusions of Law by Tuesday, September 5, 2023. A decision will then be rendered at the Board's October 4, 2023 regular meeting held at the Mount Joy Township Municipal Building at 7:00 p.m. Attorney Lewis granted an extension to the statutory deadline by which the decision must be rendered to the October 4, 2023 meeting date.

6. Next regularly scheduled meeting will be held Wednesday, September 6, 2023, beginning at 7:00 p.m.
7. A motion was made by James E. Hershey and seconded by Robert F. Newton, Jr. to adjourn the meeting at 8:06 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