

PENN TOWNSHIP PLANNING COMMISSION  
JANUARY 5, 2023

Vice-Chairman James Lumadue called to order a meeting of the Penn Township Planning Commission at 7:00 p.m. on Thursday, January 5, 2023. Also present were planning members Ron Arnold, Pamela Berlingo, Ronnie Bull, Justin Heiland, James Lumadue, and Zach Smith along with Zoning Officer Robert Smith, Township Engineer Eric Bortner, and Township Secretary Sweeney. Planner David Baker was absent with notice.

All in attendance stood for the Pledge of Allegiance to the Flag, which was followed by a period of silent meditation.

The Planning Commission took action to reorganize. Planners Bull/Heiland moved to nominate Zach Smith Chairman. Motion carried. Planners Heiland/Berlingo moved to nominate Ronnie Bull Vice-Chairman. Motion carried.

The planners approved the December 1, 2022, Planning Commission minutes as submitted.

**The planners received the following zoning appeals and made the following recommendations:**

**ZHB22-22- South Western School District**, 225 Bowman Road, Hanover, PA 17331. The applicant is requesting a special exception under Section 407.2 (a)(b) (Expansion and Alteration) in order to expand the High School. The property is located at 220 Bowman Road, Hanover, PA 17331.

Mr. Kris Raubenstine, Hanover Land Services, Inc, and Mr. Nate Osborne, Director of Facilities, South Western School District represented this request. Mr. Raubenstine presented plans to the Commission with proposed modifications and expansion to the existing high school. The reason for the special exception request is that this property resides in the suburban residential zone. Mr. Nate Osborne gave a brief overview of the proposed plans. He reported the plans include expansion for the Technical Education shop and labs, a small athletic expansion, and a music suite expansion with separate chorus, band, and orchestra classrooms. He also reported they plan to update the security in the front of the high school, air conditioning and heating units, and they will be adding additional parking.

Planners Arnold/Lumadue moved for a favorable recommendation to the Penn Township Zoning Hearing Board in case ZHB22-22-South Western School District, requesting a special exception under Section 407.2(a)(b) (Expansion and Alteration) in order to expand the High School as it meets the requirements for special exception as set forth in Section 503.3 a) thru 3). Motion carried on a 6-0 vote.

**ZHB22-23- Liberty Restoration & Construction, LLC**, 10 Westminster Avenue, Hanover, PA 17331. The applicant is appealing the decision of the Zoning Officer regarding a violation under Section 407.3 (a) (Replacement) and 700.2 (Use Certificates). The property is located at 10 Westminister Avenue, Hanover, PA 17331.

Zoning Officer Smith stated that when the applicants first came before the Planning Commission, they requested to replace one non-conforming use with another, for a construction sales office located at 10 Westminister Avenue. At that time, they stated that there would be minimal people working in the building, there was no mention of any other activity in the building. He stated that he recently has been receiving complaints from the neighboring residents regarding parking issues. After investigating, Officer Smith found a temporary sign at the entrance way to the building, this sign said "Overcomers", an addiction group the applicant councils. He also reported that the applicant has another group called Restoration Ministries, which the appeal states is registered at 534 Laurence Drive, but he reported that their social media posts the address for the organization at 10 Westminister Avenue. Zoning Officer Smith stated that the appeal refers to this as a house of worship and is a use by right in the R-8 district, which is true, however, there was no record of any of this being discussed at the Planning Commission, nor Zoning Hearing Board meetings. Officer Smith reported that there was a parking issue discussed when the applicant came before the Commission and the Zoning Hearing Board. He explained the office building requires two hundred fifty square feet per space, they did not have the necessary space because the property is two separate parcels. The Zoning Hearing Board granted a variance with the condition of requiring ten parking spaces, as the applicant stated there would be about four people in the building. Zoning Officer Smith stated that if the intentions for the use of the building were originally stated, it may have changed the decision of the Zoning Hearing Board due to the lack of parking for the building. Zoning Officer Smith also reported they are using the building without an occupancy permit. He said that whenever there is a change of use for a building, the ordinance states that an occupancy permit must be obtained. Attorney Torren Ecker, Strausbaugh Law, representing Liberty Restoration stated that he has submitted a lengthy appeal to the Zoning violation, he summarized that the building may have been a nonconforming use he would take the position that it is now a construction sales office that is permitted by special exception in the zoning district. He reported that the Duphily's primary, daily use of the building is for Liberty Restoration and Construction LLC. The Duphily's have created a nonprofit, Restoration Ministries, that is registered at their principal residence and are in the process of trying to find a location elsewhere. He stated that as part of Restoration Ministries, Overcomers is a program that they offer, not a separate entity. Attorney Ecker stated that there is a large conference room in the building, and the Duphily's hold a two-hour Bible Study once a week in the evening to help attendees with their drug addiction and life issues. Attorney Ecker reported the Duphily's have not received any complaints. Attorney Ecker stated that most likely throughout the township there are meetings being held such as bible studies, scout meetings in buildings in which is not the principal use of the building. He stated that the township under the zoning ordinance does provide for such accessory uses. In this case, house of worship would probably classify as what is happening at their facility. Planner Heiland asked

Attorney Ecker if he would be defining this as a house of worship, Attorney Ecker responded that it is not a church, but house of worship is very broadly defined within the Township's Zoning Ordinance and the Municipal Planning Code, so therefore, yes defining as an accessory use. Planner Berlingo asked of the status of the reverse subdivision. Mr. Kris Raubenstine, Hanover Land Services, Inc., stated that York County Planning Commission Comments, and Penn Township Staff comments were received several months ago and have been addressed, but through the review of those comments they discovered another Zoning issue involving landscaping will need to be addressed. Planner Berlingo questioned how many people attend the Overcomer's meetings. Ms. Dughily replied that this is an anonymous meeting, for people to come to once a week, roughly about fifteen in attendance, sometimes the number can fluctuate. She said they have never had a complaint about parking and holding the meeting at this location is temporary as they are looking for another property for Restoration Ministries programs. Zoning Officer Smith stated that they need to obtain an occupancy permit, to ensure that the building is safe. Ms. Dughily stated that they were unaware that that was needed. Attorney Ecker stated that in the approval that was received, there is nothing stating that the Zoning Hearing Board approved their use from a tv repair shop to a construction sales office and no notification that an occupancy permit needed to be obtained. He interpreted the violation as if the applicant was changing the principal use of the building, an occupancy permit would need to be obtained. Planner Heiland asked if they would agree to obtain an occupancy permit for the primary use of the building, Attorney Ecker stated, they will absolutely do so. Zoning Officer Smith will follow up with the Dughily's for the occupancy permit.

Zoning Officer Smith announced that there is an even amount in attendance of the Planning Commission, a split vote would count as an unfavorable recommendation.

Planners Arnold/Lumadue moved for an unfavorable recommendation to the Penn Township Zoning Hearing Board in case ZHB22-23-Liberty Restoration & Construction, LLC of the appeal of the Zoning violation under Section 407.3 (a)(Replacement). Motion failed on a 2-4 vote, with Planners Berlingo, Bull, Heiland, and Smith casting the dissenting votes.

Planners Heiland/Berlingo moved for a favorable recommendation to the Penn Township Zoning Hearing Board in case ZHB22-23-Liberty Restoration & Construction, LLC of the appeal of the zoning violation under Section 407.3. (a) (Replacement). Motion carried on a 4-2 vote, with Planners Arnold and Lumadue casting the dissenting votes.

Planners Heiland/Berlingo moved for a favorable recommendation to the Penn Township Zoning Hearing Board in case ZHB22-23-Liberty Restoration & Construction, LLC of the appeal of the zoning violation under Section 700.2 (Use Certificates) with the condition that the applicant obtain an occupancy permit prior to appearing before the Zoning Hearing Board. Motion carried on a 5-1 vote, with Planner Lumadue casting the dissenting vote.

**Review and make recommendations on waiver and exoneration requests:**

There were none.

**The planners reviewed and made recommendations on the following pending subdivision/land development plans:**

**SL17-10-MUSTANG POINTE, J. A. Myers**, 160 Ram Drive, Hanover, PA 17331. A preliminary subdivision plan to create 190 new residential building lots. The property is located between Breezewood Drive and Bowman Road in the R-8 zone.

**There was no action taken on this plan.**

**SL21-05-ELSNER ENGINEERING WORKS**, Elsner Engineering Works, 475 Fame Avenue, Hanover, PA 17331. A final subdivision plan was submitted in order to construct an Industrial Building for the expansion of Elsner Engineering. The property is located West of the intersection Barnhart Drive and Industrial Drive, Hanover, PA in the I-Industrial zone. **There was no action taken on this plan.**

**SL22-01 – WATER STREET FOUR, LLC**, Hanover Land Services, Inc, 585 McAllister St, Hanover, PA 17331, A Preliminary/Final Land Development plan submitted in order to create one-hundred twenty-two (122) new residential units. The property is located on Moulstown Road in the R-8 Urban Residential zone. **There was no action taken on this plan.**

**SL22-03-PANTHER CAT, LLC**, Hanover Land Services, 585 McAllister Street, Hanover, PA 17331. A land development plan submitted in order to construct a new heavy storage service facility. The property is located at 25 Spring Garden Street in the Industrial zone. **There was no action taken on this plan.**

**SL22-07-CARROLL COUNTY CHRISTIAN CENTER**, Hanover Land Services, 585 McAllister Street, Hanover, PA 17331. A Preliminary/Final plan submitted in order to construct a new house of worship facility. The property is located at 889 Baltimore Street in the SC zone. **There was no action taken on this plan.**

**SL22-09-YORK ROAD INVESTMENTS, LLC**, RETTEW Associates, Inc., 5301 Richard Lane, Mechanicsburg, PA 17055. A Preliminary Land Development and Subdivision Plan was submitted in order to construct a warehouse facility. The Property is located at 501 Ridge Avenue in the Industrial (I) zone. **There was no action taken on this plan.**

**SL22-10- 934 BALTIMORE STREET – CODY BENTZEL**, GHI Engineers & Surveyors, 213 Carlisle St, Hanover, PA 17331. A Consolidation/Land Development Plan was submitted in order consolidate two parcels, convert existing buildings and proposed building into a retail space. The property is located at 934 Baltimore Street in the HB Highway Business Zone. **There was no action taken on this plan.**

**SL22-11- LIBERTY RESTORATION & CONSTRUCTION LLC**, Hanover Land Services, Inc., 585 McAllister Street, Hanover, PA 17331. A Preliminary/Final Reverse Subdivision and Land Development Plan was submitted in order to consolidate two parcels into a sales office space. The property is located at 10 Westminster Avenue in the R-8 Urban Residential Zone. **There was no action taken on this plan.**

**SL22-12- HOLLAND CONSTRUCTION -100 BLETTNER AVE**, Site Design Concepts, Inc., 127 W. Market Street, Suite 100, York, PA 17401. A Preliminary/Final Land Development Plan was submitted in order to construct a proposed industrial building. The property is located at 100 Blettner Avenue in the A-O Apartment or Office Zone. **There was no action taken on this plan.**

**SL22-13- STONEWICKE IV – 1025 BALTIMORE STREET**, Stonewicke LP, 107 Little Bridge Road, Hanover, PA 17331. A Final subdivision plan was submitted in order to create twenty-six (26) new residential lots. The property is located at 1025 Baltimore Street in the R-15 zone. **There was no action taken on this plan.**

**SL22-14- HIGH POINTE AT ROJEN FARMS, PENN SOUTH S4**, Sharrah Design Group, Inc., 20 Chambersburg Street, Gettysburg, PA 17325. A Final subdivision plan was submitted in order to create twenty-six (26) new residential lots. The property is located between Beck Mill Road and Grandview Road in the R-C zone. **There was no action taken on this plan.**

**SL22-15- WAWA FOOD MARKET & FUELING STATION**, Dynamic Engineering Consultants, PC/Dynamic Survey LLC, 1007 Baltimore Street, Hanover, PA 17331. A Preliminary Subdivision/Land Development Plan was submitted proposing the construction of a Wawa food Market & Fueling Station. The property is located at 1007 Baltimore Street in the S/C zone. **There was no action taken on this plan.**

**Draft Zoning Ordinance:** Zoning Officer Smith reported he received comments from the York County Planning Commission on the draft Zoning Ordinance and will forward them to the Planners. Planner Bull asked if he would be looking for formatting issues. Zoning Officer Smith stated that he would appreciate any comments on formatting and spelling issues. Planner Berlingo asked if it was possible to address the subject of accessory uses for clubs. Zoning Officer Smith stated that he has reviewed about six other Zoning Ordinances, and none of those addresses the matter. He reported that Sharon Boyer, York County Planning Commission would like to discuss the ordinance with the Planning Commission and may attend next month's meeting.

**Public Comments:** Mr. Robert Gunnarsson, 48 Cardinal Drive, had questions regarding the parking issues for Liberty Restoration & Construction, LLC, and commended the Planning Commission on how they addressed the appeal decision.

The meeting was adjourned at 8:25 p.m.

Respectfully submitted,

Donna M. Sweeney, Recording Secretary