

IN RE: : BEFORE THE ZONING HEARING
APPLICATION OF A & S REAL ESTATE : BOARD OF DICKINSON TOWNSHIP
: CUMBERLAND COUNTY, PENNSYLVANIA
: DOCKET NO. 2017-03

**FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DECISION GRANTING
APPLICANTS' REQUEST FOR ZONING VARIANCE**

The Applicant seeks a use variance to locate a branch office from which to conduct landscape maintenance services in the Medium Density Residential Office (MDR-O) District as set forth in the Dickinson Township Zoning Ordinance. A hearing on the application was held by the Dickinson Township Zoning Hearing Board on December 6, 2017 at 4:00 p.m. at the Dickinson Township Municipal Building, 219 Mountain View Road, Mount Holly Springs, PA 17065.

FINDINGS OF FACT

1. The Applicant is A & S Real Estate (the "Applicant"), 2340 Paxton Church Road, Harrisburg, Pennsylvania, 17110.
2. The Applicant is the equitable owner of property located at 10 Kuhn Drive, Carlisle Pennsylvania 17013, (the "Subject Property"). The Parcel Identification Number is 08-09-0527-034.
3. The legal owner of the Subject Property is Enola Construction Co., Inc., P.O. Box 121, Carlisle, Pennsylvania 17013, who previously occupied the Subject Property.
4. The Subject Property is approximately 1.63 acres in area and is zoned Medium Density Residential Office (MDR-O) District

5. The Subject Property is currently improved by a commercial structure which contains office space as well as a garage and storage area, which structure is currently vacant, but was occupied by a construction company.

6. The Applicant is requesting a use variance to locate a branch office of Davis Landscape, Ltd. ("Davis"), from which to provide landscape maintenance services in the Carlisle area.

7. The Subject Property has been devoted to a commercial use and an adjoining property, as well as a property across Kuhn Drive from the Subject Property are currently devoted to commercial uses.

8. Immediately to the rear of the Subject Property is a warehouse/distribution facility.

9. Davis desires to use the Subject Property as a branch office to provide a location out of which to provide landscape maintenance services, primarily to provide mowing and trimming services to warehouses in the Carlisle area.

10. Davis proposes to operate four (4) trucks with enclosed equipment trailers from the Subject Property to perform off-site landscape maintenance, as well as perform routine maintenance on mowing equipment stored in the enclosed trailers at the Subject Property.

11. Any maintenance performed on the mowing equipment would be performed inside the commercial building on the Subject Property.

12. The trucks with enclosed trailers would be stored on the Subject Property, and the maintenance crews would report to the Subject Property in the morning to travel to work sites and report back to the Subject Property at the end of the work day. During the work day, employee vehicles would be parked on the Subject Property.

13. Davis does not propose to store materials, supplies, nursery stock or equipment outside other than trucks with enclosed trailers containing landscape maintenance equipment.

14. Any grass clippings, brush or other yard residue brought to the Subject Property would be placed in a dumpster on site for disposal.

15. Davis does not propose that members of the public will be coming to the Subject Property to conduct any business. The Subject Property is intended to be used as a staging area for Davis' landscape maintenance business.

16. Because the traffic volume generated by proposed use appears to be low, there would be no traffic congestion problem created by the proposed use.

17. One resident, Kenneth Graham, spoke in opposition to the variance.

18. One adjoining property owner, Debbie Palmer spoke in support of the variance.

19. Notice of the hearing was duly advertised in a newspaper of general circulation, and posted on the property in accordance with the Zoning Ordinance.

CONCLUSIONS OF LAW

1. Section 10910.2 of the Municipalities Planning Code (the "MPC"), 53 P.S. §10910.2, requires the Zoning Hearing Board to hear requests for variances. Section 910.2 further provides that in granting a variance, the Zoning Hearing Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of the MPC and zoning ordinance.

2. Section 910.2 of the MPC further sets for the five (5) criteria, which must be satisfied in order to obtain a variance.

3. The use proposed by the Applicant is neither permitted nor denied by the Zoning Ordinance.

4. Section 205-87 of the Zoning Ordinance provides: "In a district established by this chapter, when a specific use is neither permitted nor denied, the Zoning Hearing Board shall make a determination as to the similarity or compatibility of the use in question to the permitted uses in the district, as well as the general purpose and intent of this chapter. No zoning permit shall be issued by the Zoning Officer for any unspecified use until this determination has been made."

5. The Medium Density Residential Office (MDR-O) District is a mixed use district that provides for single family and multi-family residential uses, as well as certain non-residential uses such as day care centers, financial institutions, professional offices, outdoor recreation facilities, campgrounds, private and public schools, riding stables and government buildings.

6. The purpose of the Medium Density Residential Office (MDR-O) District, as set forth in Section 205-13.A. of the Zoning Ordinance is to provide reasonable standards for harmonious development, development of residences, apartments, townhouses, professional offices, financial institutions and other uses compatible with medium and high density housing and avoid traffic congestion problems.

7. The Zoning Hearing Board concludes that the proposed use of the Subject Property is compatible with the intended purpose of the Medium Density Residential Office (MDR-O) District, in that the proposed use is compatible with medium and high density housing as well as the other permitted non-residential uses and would not create traffic congestion problems.

8. Because of the configuration of the Subject Property, the layout of the building and the commercial character of the neighborhood, there is no reasonable possibility that the Subject

Property can be developed in strict conformity with the Zoning Ordinance and a variance is therefore necessary to enable the reasonable use of the property.


9. The Applicant has not created a hardship.
10. The variance would not alter the essential character of the neighborhood.
11. The variance would represent the minimum variance to afford relief.

DECISION

In view of the foregoing and having carefully considered the testimony and exhibits submitted to the Board, the request for a use variance to locate a branch office of Davis Landscape, Ltd. on the Subject Property, from which to provide landscape maintenance services, is granted in strict accordance with the testimony and exhibits, subject to the following conditions:

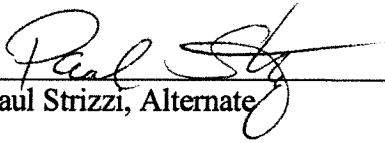
1. Any outdoor lighting must comply with Section 205-28.E of the Zoning Ordinance.
2. No supplies, materials, nursery stock or equipment other than trucks with enclosed trailers containing landscape maintenance equipment shall be stored outside.
3. Any grass clippings, brush or other yard residue brought to the Subject Property shall be placed in a dumpster on site for disposal.

VOTE

yes 
Rob Robinson, Vice-Chairman

Yes 
Dennis Calaman, Member

yes



Paul Strizzi, Alternate

ANY PERSON AGGRIEVED BY THIS DECISION OF THE DICKINSON TOWNSHIP ZONING HEARING BOARD MAY APPEAL TO THE COURT OF COMMON PLEAS OF CUMBERLAND COUNTY. THE APPEAL MUST BE FILED WITHIN 30 DAYS OF THE MAILING DATE OF THIS DECISION.

MAILING DATE: