



BOROUGH OF CONSHOHOCKEN

Office of the Borough Manager

MAYOR
Yaniv Aronson

BOROUGH COUNCIL
Colleen Leonard, President
Tina Sokolowski, Vice-President
Robert Stokley, Senior Member
Anita Horton, Member
James Griffin, Member
Jane Flanagan, Member
Karen Tutuso, Member

Stephanie Cecco
Borough Manager

ZONING NOTICE

MAY 18TH, 2020 ZONING HEARING BOARD MEETING TO OCCUR VIA REMOTE MEANS

NOTICE IS HEREBY given that the Conshohocken Zoning Hearing Board will conduct a public hearing on Monday, May 18th, 2020 at 7:00 p.m. prevailing time via remote means. The public is encouraged to participate as set forth below.

In response to the Governor's Stay at Home Order due to COVID-19, this meeting will be held using a Web-ex platform. To the extent possible, members of Conshohocken Zoning Hearing Board members, and Borough staff/professionals will participate via both video and audio. (INSTRUCTIONS ON SECOND PAGE)

At this time, the Conshohocken Zoning Hearing Board will hear testimony and accept evidence on the following request for an extension of zoning relief granted in 2014.

PETITIONER: Corson Street Acquisition, LP
3815 West Chester Pk., Newtown Square, PA 19073

PREMISES INVOLVED: 400 West Elm St., Conshohocken, PA 19428
Specially Planned-3 Zoning District

OWNER OF RECORD: Same as Petitioner

The Petitioner is requesting an extension of zoning relief granted in 2014 for a building bulk of 574 lineal feet, where 300 lineal feet is permitted. If approved this request would be the third extension for the project.

Persons who wish to become parties to the application must notify the Borough of their intent to ask for party status at least five (5) days prior to the scheduled hearing by emailing the attached entry of appearance form to zoning@conshohockenpa.gov or calling (610) 828-1092. Said persons must be available to participate in the zoning hearing on the scheduled date and time. It is noted that submitting the attached entry of appearance form does not guarantee that you will be granted party status. The Zoning Hearing Board decides who may participate in the hearing before it as a party, subject to Section 908(3) of the Municipalities Planning Code (MPC). The MPC permits party status to any person "affected" by the application. Having taxpayer status alone is not enough to claim party status; however, a person whose property or business abuts the property that is the subject of the appeal is affected and should qualify as a party. Ultimately, the ZHB makes the party status determination after reviewing the request.

Persons with a disability who wish to participate in the public hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact the Borough of Conshohocken at 484-243-6069.

Thank you,
Zoning Hearing Board

ZONING HEARING REMOTE SESSION ACCESS INSTRUCTIONS

The public is encouraged to participate as follows:

Audio Feed Participation: You may dial-in to access the audio feed of the meeting. All participants (whether listening or providing comments) must use this method of audio participation, even those using Webex to access the video feed. To access audio, please use the below number and access code/ password information.

- Dial: 1-888-822-7517
- Access Code/Password: 430 557 7 #

We ask that you please keep your phones on vibrate at all times, unless giving a public comment as set forth in the Public Comment section below.

Video Feed Participation: The public may access the video feed by using the link provided below. *Please note that this will give participants visual only. You must still dial-in in order to get audio of the meeting (see *Audio Feed Participation* section below for further instructions).

VIDEO LINK CAN BE FOUND ON THE BOROUGH OF CONSHOHOCKEN WEBSITE

If this is the first time you have used Webex, the link will direct you to a website to download the Webex application. Please follow the instructions to install the Webex application.

If you have already downloaded the Webex application, the link will redirect you to the application itself. Please follow the instructions.

It is recommended that you download the application in advance of the meeting time. If you attempt to sign in prior to the start of the meeting, the Webex application will inform you that the meeting has not started. Please close the application and log back in at the time of the meeting (7:00 PM).

Public Comment: There will be a designated time on the agenda for public comment. Those with public comment shall state their name and address.

Prior to the start of the meeting, you may submit written comments by e-mailing them to Bmyrsiades@conshohockenpa.gov. Similarly, during the meeting, you may submit written comments by e-mailing them to bmyrsiades@conshohockenpa.gov.

Public comments submitted in this manner will be read by a member of Borough Administration during the public comment period. Because the actual time of the public comment period is determined by the pace of the meeting, please submit all comments as soon as possible, whether before or during the meeting. Written comments shall include the submitting person's name, address and property in question.

The Conshohocken Zoning Hearing Board thanks you in advance for your cooperation during the remote meeting. If you encounter problems participating during the meeting, or have questions regarding the above prior to the meeting, please contact the Borough at bmyrsiades@conshohockenpa.gov.

**The Borough of Conshohocken Zoning Hearing Board
Entry of Appearance as a Party**

I/We _____

Request to be granted party status in Application Z _____.

Applicant: _____

Please print name and address below:

Please Sign Below:

Please return form via mail or e-mail to the below:
(Entry must be received no later than Wednesday May 13th, 2020)

MAIL:
Borough of Conshohocken
Attn: Bobbi Jo Myrsiades
400 Fayette St.
Conshohocken, PA 19428

E-MAIL:
zoning@conshohockenpa.gov



BOROUGH OF CONSHOHOCKEN

Office of the Borough Manager

MEMORANDUM

MAYOR

Yaniv Aronson

BOROUGH COUNCIL

Colleen Leonard, President
Jane Hagan, Vice-President
Robert Stokley, Senior Member
Anita Barton, Member
James Gillin, Member
Tina Sokolowski, Member
Karen Tutino, Member

Stephanie Cecco
Borough Manager

Date: December 20, 2019
To: Zoning Hearing Board, Alex Glassman, S. Cecco, M. Peters, Esq.
From: Chris Stetler
Re: 400 West Elm Street - Extension of Zoning Relief

History of the Project: 400 West Elm Street is located in the Specially Planned - 3 Zoning District; and consists of 8.2 acres of land in Conshohocken and 1.2 acres in Plymouth Township. Originally approved a residential project; the project was changed to a 400,000 + square foot office building and associated parking. In 2014 a Variance to Section 27-1608.6 of the Zoning Ordinance, which limits the lineal feet of a building to 300 feet, was granted. Building bulk was permitted up to 574 lineal feet, which included a parking garage extending beyond the footprint of the proposed office building.

The amended plan for the project, was approved by Borough Council in 2018. Approved plans indicated that the parking garage would not exceed the footprint of the office building, which is 398 lineal feet.

In March, 2018, an extension of the variance for building bulk was granted for one (1) year through March, 2019. A second extension of relief was granted in January 2019 through March 19, 2020. The project is seeking tenants to construct the project as approved in 2014; but continues to explore alternatives.

Current Request: The Developer has requested a third one (1) year extension to the zoning relief granted for building bulk.

Zoning Determination: Proposed building bulk of 398 lineal feet; exceeds the Specially Planned - 3 Zoning District limit of 300 lineal feet. Regardless of the ultimate use of the site as commercial or residential; an extension of relief is required if the building bulk exceeds that permitted. The Board should inquire if there is a date by which a decision regarding the use of the site will be made.

CORSON STREET ACQUISITION, L.P.

3815 West Chester Pike

Newtown Square, PA 19073

Phone: (610) 996-6600 * Email: bob@landtrustprop.com

December 13, 2019

(Via Email)

Christine Stetler, Zoning Officer
Borough of Conshohocken
400 Fayette Street, Suite 200
Conshohocken, PA 19428

RE: 400 West Elm Street

Dear Ms. Stetler:

Let this letter serve as our request for a one-year extension to the July 7, 2014 approval from the Zoning Hearing Board for our 400 West Elm Street project in Conshohocken. This approval is currently due to expire on 3/19/20.

Although we are considering other alternatives for the site, we are still actively pursuing tenants that would allow us to proceed with the project that this Board approved in 2014. Since that approval we have secured final approval from the Borough along with all of the required state and federal permits.

It is still technically feasible for us to secure a building permit before the 3/19/20 deadline but we do not anticipate doing so which has prompted this request for an additional extension.

Except for the fact that the amended final plan, increasing the height, was approved by Borough Council on 3/22/18, and the ZHB approved a one-year extension on 1/17/19, your attached letter dated 3/2/18 accurately summarizes the project. I would respectfully request that this request for an extension be placed on the next available agenda of the Zoning Hearing Board for their consideration.

In the interim, if you have any questions or need any additional information please reach out to me and I will gladly supplement my request as needed.

With warm regards,



Robert J. Dwyer
Vice President- Development



BOROUGH OF CONSHOHOCKEN

MAYOR
Yaniv Aronson

BOROUGH COUNCIL
Colleen Leonard, President
Jane Flanagan, Vice-President
Robert Stakley, Senior Member
Anita Barton, Member
James Griffin, Member
Tina Sokolowski, Member
Karen Tuttle, Member

Stephanie Cecco
Borough Manager

Borough of Conshohocken Zoning Hearing Board

Thursday, January 17, 2019
Conshohocken Borough Hall, 400 Fayette Street
Conshohocken, PA 19428-1904

400 West Elm Street, Conshohocken, PA 19428-1904
Extension of Zoning Relief Granted in 2014 and Extended
Through March 19, 2019

The Conshohocken Zoning Hearing Board at its January 17, 2019 meeting considered the request of Corson Street Acquisition, LP for an additional one (1) year extension to zoning relief granted in 2014. An extension through March of 2019 previously was granted by the Zoning Hearing Board.

The following documents were entered into the Record:

- P-1: Zoning Notice;
- P-2: Letter from Robert J. Dwyer, dated December 10, 2018 requesting the extension;
- P-3: Memorandum from Chris Stetler to S. Cecco and M. Peters, Esq. dated December 13, 2018;
- P-4: 2014 Decision of the Zoning Hearing Board; and
- P-5: Summary of the March 19, 2018 Meeting Approving an Extension of Zoning Relief.

Robert Dwyer, Vice President - Development for Corson Street Acquisition, LP presented the request for a second extension of the zoning relief granted in 2014 for the project at 400 West Elm Street. The prior extension of the relief expires March 19, 2019; and while permits might be able to be drawn, the Developer desires a second extension out of caution.

The proposed project is the development of a 400,000 square foot office building with accessory structured and surface parking. A variance was granted for building bulk to exceed 350 square feet.

Mr. Dwyer reported that the amended plan for the project has received Land Development Approval from Conshohocken Borough Council. The Developer was pursuing Amerisource Bergin as the sole tenant for the project. Amerisource Bergin made the decision to use a different developer. Since that time Corson Street Acquisition has worked to secure two (2) separate tenants to lease the building. The approved plan for the project reduces the building

bulk from 574 lineal feet (the original limit of the Zoning Hearing Board's approval) to 398 lineal feet.

The size of the building was questioned by Mr. Cardamone. Mr. Dwyer responded that if the full 400,000 square feet could not be leased; the Developer might consider reducing the square footage to 325,000 square feet. A resident of the area questioned how much longer it would take to develop the site; and would the current extension be the last requested. At present, the neighborhood is looking at a large industrial style fence. Mr. Dwyer responded that the fence was installed to prevent illegal dumping at the site, and the Developer is willing to work with the neighbors concerning the fence. The Developer hopes to begin construction in spring, 2019.

MOTION: TO APPROVE A ONE (1) YEAR EXTENSION OF ZONING RELIEF THROUGH MARCH 19, 2020. (VACCA/SCHARFF)

Vacca	yes
Scharff	yes
Cardamone	no
Barton	yes

The request for an additional one (1) year extension of zoning relief granted in 2014, through March 19, 2020 was approved.



BOROUGH OF CONSHOHOCKEN

MAYOR
Yaniv Aronson

BOROUGH COUNCIL:
Colleen Leonard, President
Jane Hangan, Vice-President
Robert Stokley, Senior Member
Arlita Barton, Member
James Griffin, Member
Tina Sokolowski, Member
Karen Tydno, Member

Stephanie Cecca
Borough Manager

Borough of Conshohocken Zoning Hearing Board

Monday, March 19, 2018
Conshohocken Borough Hall, 400 Fayette Street
Conshohocken, PA 19428-1904

400 West Elm Street, Conshohocken, PA 19428
Extension of Zoning Relief Granted in 2014

The Conshohocken Zoning Hearing Board considered a request from Corson Street Acquisition, LP at its Monday, March 19, 2018 meeting. An extension of relief granted in 2014, for building bulk was requested. The Developer was represented by Robert Dwyer, Vice President – Development.

The following documents were entered into the record:

- P-1: Memorandum dated March 2, 2018 summarizing the extension request;
- P-2: A letter from Robert Dwyer dated February 28, 2018 requesting the extension; and
- P-3: The original Decision of the Board approving a variance from §27-1608.6 of the 2001 Zoning Ordinance as Amended granting building bulk of 574 lineal feet.

Mr. Robert Dwyer, representing Equus/Corson Street Acquisition, explained that the Developer was in negotiations with a single tenant for the approved office building to be built at 400 West Elm Street in Conshohocken. The tenant is a Fortune 500 company and will require total floor space of 400,000 square feet. The project must be under construction in early June, or the tenant will go elsewhere. Due to the limitations of the site, the only way to provide additional square footage is to increase the height of the building. The Developer has submitted an amended Land Development Plan for the project, which is being considered by Conshohocken Borough Council on Wednesday, March 21, 2018 (This meeting was rescheduled due to inclement weather for Thursday, March 22, 2018.). There have been no changes to the footprint of either the office building or the garage. All prior representations made regarding the project still are in effect. A second height bonus is being requested from Borough Council to accommodate the increased height of the building. It was noted that one (1) height bonus had been granted. Up to three (3) such bonuses are permitted for the construction of amenities beneficial to the general public.

Question was raised as to what the original height bonus amenity was and what amenity was proposed for the second height bonus. The first height bonus was based on the construction of a comfort station along the trails adjacent to the project. The amenity was met with significant opposition from residential neighbors to the project. A cash contribution was negotiated in lieu of the comfort station. At present, the proposed amenity for the second height bonus still is under negotiation.

Question was raised regarding public access across the site. It was reported that there will be access across the site via Corson Street. There is access across the site between the office building and the parking garage. Lastly, the Cross County trail will run along the north side of the site and continue to connect with the Schuylkill River Trail. Public parking which currently is located at the unopened end of Corson Street will be replaced with public spaces in a surface lot to the east of Corson Street.

There was a brief discussion of the length of an extension needed for the project. It was agreed that a one (1) year extension would be appropriate.

Board Member Cardamone commented that this request appears to be part of a pattern of Developers requesting zoning relief, and no buildings being built, after which additional relief or extension of relief granted is requested. At the original hearing Mr. Cardamone believed that the Developer stated that there was a tenant for the building. Mr. Dwyer responded that at that time the Developer was aware of several companies who would be looking for additional space in the near future, but no tenant lease was signed.

MOTION: TO EXTEND THE ZONING RELIEF GRANTED FOR BULDING BULK IN 2014 FOR ONE (1) YEAR (March 19, 2019). (Danek/Barton)

Danek Yes

Cardamone No

Barton Yes

Motion Granted: March 19, 2018

BEFORE THE ZONING HEARING BOARD OF CONSHOHOCKEN

IN RE: APPLICATION OF
CORSON STREET ACQUISITION LIMITED PARTNERSHIP

REGARDING

WEST ELM & CORSON STREETS

DECISION OF THE BOARD

I. History of the Case:

By application and addendum dated May 2, 2014 and admitted as Exhibit P-2 (collectively, the "Application"), Corson Street Acquisition Limited Partnership (the "Applicant") is seeking zoning relief from the Zoning Hearing Board (the "Board"), in the nature of a variance (the "Variance") from Section 27-1608.6 of the Conshohocken Borough Zoning Ordinance of 2001 (together with all amendments thereto, the "Zoning Ordinance"), which limits buildings to no more than 300 feet in total horizontal length. The Variance relates to the Applicant's land development plan (the "Project") for property located at West Elm & Corson Streets, Conshohocken (the "Property"). The Applicant is requesting that it be permitted to construct a 324,860 square foot office building with below grade parking that would be 398 feet in length¹ (the "Proposed Use").

The Zoning Ordinance permits the Board to grant a variance when failure to do so would "inflict unnecessary hardship" upon an applicant. See id. at § 27-611.1.A.

A public hearing was held before the Board on the evening of June 2, 2014, at 7:00 p.m. prevailing time at the Borough Hall in Conshohocken, Pennsylvania. The initial

¹The Application originally requested relief to construct a building 398 feet in length. The Board determined that the below grade parking, which extends beyond the length of the building, should be included in the length calculation and that the true length of the building is 574 feet.

hearing was continued, with the continuation heard on July 7, 2014 at 7:00 p.m. prevailing time at the Borough Hall in Conshohocken, Pennsylvania. At the conclusion of the continuation, the Board discussed the remaining issues and rendered a decision. Due notice was given for the public hearing.

After the final conclusion of the hearing, the Board found as follows:

II. Findings of Fact:

1. The Applicant is Corson Street Acquisition Limited Partnership, and the owner of the Property is James J. Neave, et al., c/o Michael V. Sencindiver. The Applicant was represented by Louis J. Colagreco, Esquire ("Colagreco") at the hearing, and its principal witness was John Forde ("Forde") of BPG Properties, Ltd., on behalf of the Applicant.
2. The property involved is located at West Elm and Corson Streets in Conshohocken, Pennsylvania. The Property is presently zoned Specially Planned District-3 ("SP-3").
3. At the initial hearing, Colagreco submitted a packet of exhibits, labelled A-1 through A-6 and indicated that Forde would be the sole witness called.
4. With reference to the site plan admitted as Exhibit A-4, Forde indicated that the proposed office use was permissible in the zoning district. He described the Property as consisting of 8.2 acres in Conshohocken and 1.2 acres in Plymouth Township. Forde also indicated that the Property is bordered along Elm Street by the catenary lines, to the east by Plymouth Creek, to the south by railroad tracks and to the west by Corson Street. He indicated that the Property was irregularly shaped and that the

lot itself was not deep, but elongated. The Proposed Use includes three (3) stories of parking beneath a seven (7) story office building.

5. Forde also testified with respect to prior plans for the use of the Property. He indicated that the Property had previously received conditional use approval in August of 2013 for grading/regarding, paving and utilities. Forde indicated that the original intention of the Applicant was to develop 350 residential apartments at the Property; however, he stated that the election to change the use of the Property to the Proposed Use was based on the fact that office space is in demand in the surrounding five (5) county region.

6. Forde next referenced Exhibit A-6.A, which is a rendering showing the Project view from West Elm Street. He indicated that there would be seven (7) stories of office space visible from West Elm Street, which would be housed in a two-tone building, constructed of pre-cast cement. He also referred to Exhibit A-6.B, which shows the Project view from the Schuylkill River (the "River"). He indicated that seven (7) stories of office space would be visible, as well as three (3) levels of parking. He indicated that the Property dropped off in the rear so that the parking would only be visible from the River side. Forde also highlighted Exhibit A-6.C, which shows the view of the Project from the Grande at Riverview in Conshohocken, with just seven (7) stories of offices visible.

7. Forde's testimony also addressed some other unique aspects of the Property. He indicated that both the Schuylkill River Trail and the Cross-County Trail cut through the site. With reference to the site plan (Exhibit A-5), Forde stated that the Applicant is proposing to relocate the Schuylkill River Trail to the south side of the

Property. He indicated that the Applicant has met with Montgomery County officials and that Montgomery County has approved the relocation. Forde also indicated that public restrooms would be installed along the trail.

8. Colagreco asked Forde to explain why the Applicant needed to exceed the allowable 300 feet of building bulk in this Project. Forde indicated that the targeted tenants for the building require one floor of 40-42,000 square feet of open office space. He indicated that there was a preference by certain tenants for more employees to be located on one floor rather than several floors in a building. Forde also indicated that many buildings only supply 25,000 square feet of space per floor, which shuts out these tenants.

9. Colagreco also asked Forde to indicate whether the Proposed Use is consistent with the neighborhood. Forde stated that there are currently mixed uses along West Elm Street and that the requested relief was the minimum relief necessary to develop the Property.

10. The Board then posed the following questions to Forde:

a) Vivian Angelucci ("Angelucci") asked whether the Applicant had already secured tenants for the Proposed Use. Forde indicated that it had not.

b) Russ Cardamone ("Cardamone"), referring to the Exhibit A-4, asked about the structure that appears to extend beyond the length of the building. Forde indicated that the parking structure, located beneath the building, actually extends beyond the length of the building. Cardamone then asked about the total length of the building, including the parking structure. Forde responded that the total length is 574 feet. With

reference to Exhibit A-6, Cardamone asked whether the Project was planned to be part

of the Grande at Riverview. The Applicant indicated that was not the intention, but that the residential use would have been similar. Cardamone asked the Applicant to confirm that the Grande is four (4) stories and that the Proposed Use would be seven (7). The Applicant confirmed. Cardamone stated that the projected length was quite an increase of the permissible 300 feet and that tenants could potentially utilize smaller spaces. The Applicant indicated it could not develop the Property with a smaller footprint.

c) Greg Scharff, the acting Chairman for this hearing (the "Chairman") stated that the intention of Section 27-1608.6 appears to be limited building bulk. He asked whether the Applicant had considered adding parking in front of the building, rather than beneath and extending beyond the width of the building. Forde indicated that the building needs to be set back twenty (20) feet from the catenary lines, but that parking would be permitted in that area. He stated that the Property is bounded by the floodway in the rear and indicated that tenants prefer natural light.

d) Cardamone asked whether a gas station would be included at the Property. The Applicant indicated that there is an agreement to purchase the existing gas station that borders the Property.

11. Zoning solicitor David A. Nasatir, Esquire ("Nasatir") stated that he had concerns that the relief requested should be for the full length of the building including the parking, 574 feet, rather than the 398 feet originally requested in Exhibit A-2. Zoning Officer Christine Stotler ("Stotler") indicated that parking is only excluded in the calculation of floor area ratio. Colagreco stated that the Zoning Ordinance defines "Building" as a roofed structure intended to house a residence, etc., and that the Applicant viewed parking as an accessory use. Nasatir stated that the Applicant could

amend its Application to request relief for 574 feet or, in the alternative, request an interpretation that "Building" does not include parking. Nasatir indicated that the Board would need to determine whether the 98 feet requested is the proper relief or if the Applicant should have requested relief for the full 274 feet in excess of the permissible building length caused by the inclusion of the parking in the calculation of building bulk.

12. The Chairman asked what portion of the parking deck would be above grade as viewed from West Elm Street. The Applicant indicated that the parking would be level with grade due to the slope of the Property. Forde also pointed to Exhibit A.6, which shows the view of the Project from West Elm Street. The Chairman also asked whether there was reasoning for the 300 foot length limit in the Zoning Ordinance. Stetler indicated that there was none she was aware of, but that the prior version of the Zoning Ordinance had a limitation for the length of parking. Stetler also stated that a lot of these concerns would be addressed in land development, but that landscaping would also be required along the parking area.

13. The Chairman then asked for questions from the audience. Concezio Lelii of 333 West Elm Street stated his concerns regarding storm run-off and flooding with respect to Plymouth Creek. Stetler indicated that storm water issues would be reviewed at the land development stage of the Project. She also stated that conditional use would require a FEMA map amendment and that the Borough Engineer or its staff would address such issues.

14. The Chairman requested public comment on the matter. Michael Sencindiver ("Sencindiver"), a representative for the owner of the Property, stated that it was important to note the significant grade change from West Elm Street to the railroad

tracks that border the Property. He reiterated that the only view of the parking would be from the bike trail or the owner's property. Senoindiver also stated that due to the increase in multi-family development in Conshohocken, there has been a shortage of office space. He indicated that his clients asked that the Applicant consider office use. He also reiterated that the Property was constrained from a depth standpoint and that the proposed office use would provide the most benefit to the Borough.

15. Nasatir suggested that the Board consider continuing the hearing for purposes of re-advertising, since the amended application would request almost three (3) times the relief if parking were included. He stated that the public should be aware if the Application is amended to request such an increase in proposed relief. The Board agreed that the hearing be continued with the record left open for purposes of advertising the requested relief as 574 feet in building length.

16. Colagreco provided a quick summation stating the Applicant's belief that there was ambiguity in the Zoning Ordinance and that the ambiguity should be read in favor of the Applicant. He indicated that the parking was not a roofed structure and that it should not be considered a "Building." Colagreco also stated that if necessary, the Applicant would request the additional relief, reiterating that the Property would not be developed without a building bulk variance.

17. Prior to the continuation hearing, Stetler issued a new notice of the continued hearing which reflected the request for relief from Section 27-1608.6 for 574 feet in building bulk or, in the alternative, an interpretation that the parking should not be considered part of the building bulk calculation. The hearing was continued on July 7, 2014. The Applicant offered no additional testimony or exhibits at the continued hearing.

18. The Chairman asked for any additional public comment. Sencindiver reiterated that the Property had a significant slope and that the parking would not be visible from Bin Street.

19. The Board finds that the matter was properly advertised pursuant to the Zoning Ordinance and the Pennsylvania Municipal Planning Code ("MPC").

III. Discussion

As detailed above, the Proposed Relief that the Applicant wishes to obtain consists of the Variance in order to permit the development of the Project, in accordance with the plans submitted by the Applicant and the testimony offered at the hearing. The Proposed Relief would permit the Project to include a building in excess of 300 feet in length. The Applicant believes that the requested Variance constitutes the minimal relief necessary to complete the Project.

Section 27-611 of the Zoning Ordinance permits the Board to grant a variance when the "Zoning Ordinance inflicts unnecessary hardship upon the Applicant." See *id.* at 27-611(1)(A). Unnecessary hardship is to be determined to be present when the Board determines, as applicable, that:

- a) there are unique physical circumstances, or conditions to the property;
- b) there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance and thus the Variance is necessary to enable reasonable use of the property;
- c) the unnecessary hardship has not been created by the Applicant;
- d) the granting of the Variance, if authorized, would not alter the essential character of the neighborhood; and

e) the granting of the Variance, if authorized will represent the minimum variance to afford the relief and represent the least modification possible to the regulation in issue.

Id. at § 27-611. See also MPC, at 53 P.S. §10910.2.

The requested Variance is dimensional in nature. In such situations, the Supreme Court of Pennsylvania has found, "the owner is asking only for a reasonable adjustment of the zoning regulations in order to utilize the property in a manner consistent with the applicable regulations." See Hertzberg v. Zoning Board of Adjustment of City of Pittsburgh, 721 A.2d 43, 47 (Pa. 1998). Thus, the Pennsylvania Supreme Court has stated, the level "of proof required to establish unnecessary hardship is indeed lesser." See id. at 48.

The Board has reviewed the Proposed Relief carefully in connection with the requirements of Section 27-611 as well as the MPC standards for granting the Proposed Relief. See MPC, at 53 P.S. §10910.2.

Under Section 27-1608.6, building bulk is limited to 300 linear feet. The Chairman indicated that in his opinion, the original request for 398 feet was more in line with the intent of the Zoning Ordinance. Cardamone and Angelucci indicated they agreed. Cardamone stated that based on the request, that relief was necessary for 574 feet. With respect to the Applicant's request for an interpretation of building bulk, the Board unanimously agreed that the building bulk should include the parking portion of the structure.

The Chairman also indicated his belief that given the topography of this particular site, the Property would be difficult to develop. The majority of the Board believes that

granting the requested Variance is both prudent and appropriate in relieving an undue hardship upon the Applicant, and further believes that the dimensional relief requested is a "reasonable adjustment of the zoning regulations in order to utilize the property in a manner consistent with the applicable regulations" as required under the Hertzberg decision. See Hertzberg, 721 A.2d at 47, 48. With Cardamone opposing, the majority of the Board agreed to grant the requested Variance to permit 574 feet of building length.

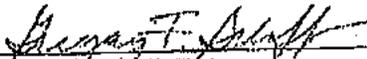
IV. Conclusions of Law

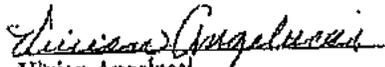
1. The matter was properly presented before the Board.
2. The matter was properly advertised and the hearings both timely and appropriately convened in accordance with the provisions of both the Zoning Ordinance and the MPC.
3. The Zoning Ordinance and the MPC both give the Board the necessary discretion to determine whether or not to grant the Proposed Relief.

ORDER

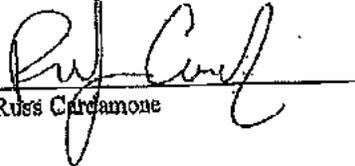
The Board grants the Applicant's request for the Proposed Relief from Section 27-1608.6 of the Zoning Ordinance. Such relief is granted subject to the Applicant maintaining the Proposed Use in conformity with the information provided to the Board as well as all other regulations of the Borough.

CONSHOHOCKEN ZONING HEARING BOARD²


Gregory Scharff, Chairman


Vivian Angelucci

DISSENTING ON THE DECISION


Russ Carcamone

² Richard Barton, Chairman of the Board, did not attend the original hearing, and therefore, did not take part in the decision. Board member Janis Vasco recused herself from this hearing, and therefore, did not take part in the decision.