

**MINUTES OF THE MEETING OF THE
UPPER ALLEN TOWNSHIP ZONING HEARING BOARD
January 14, 2016**

The January meeting of the Upper Allen Township Zoning Hearing Board was called to order by the Chairperson, Jean Foschi, at 6:00 p.m. on Thursday, January 14, 2016. In addition to the Chairperson, the following board members were present: Gary Scicchitano, Gerald Schultz and Donald Steele. Also present was Robert Saidis, Esquire.

2016 REORGANIZATION

Chairperson: Jean Foschi nominated by: Gary Scicchitano, seconded by Donald Steele
Vice-Chairperson Gary Scicchitano nominated by: Jean Foschi seconded by Donald Steele
Solicitor: Law offices of Saidis, Sullivan & Rogers nominated by: Jean Foschi, seconded by Gary Scicchitano
All Votes unanimous.

VARIANCE NO. 16-02, DOLLAR TREE, VARIANCE REQUEST TO SECTION 245-241C(5)

Mr. Kenneth James Sullivan Jr. was sworn in to testify.
Mr. Sullivan represents Dollar Tree.

Mr. Sullivan was informed by the board that he has not identified a hardship and it was suggested that he continue to February ZHB to amend his application.

Mr. Sullivan has requested a continuance.

Hearing was closed for public comment.

SPECIAL EXCEPTION NO. 16-01, RIDER MUSSER DEVELOPMENT LLC, SPECIAL EXCEPTION REQUEST TO SECTION 245-115

Mr. Charles Courtney was sworn in to testify.
Rider Musser intends to construct mixed-use development. Ordinance has provision that areas where development has steep slope area, a special exception is required. Rider Musser worked with the Township on Zoning Amendments, which were adopted, and is working on another round of amendments currently.

Christine Hunter was sworn in to testify.
Ms. Hunter works with HE Black as a registered architect. She is the project manager, and landscape architect working on the plans. Ex A4 is existing conditions plan. General site overview: Eastern lot is the Musser Tract, Middle is Orchard Hill, with Presidents Residence. West is Rider tract. Entire land is approx. 115 acres. Current zoning is R-3 for Musser Tract.

Orchard Hill is INS. Rider Tract is BPO. Topo on site is relatively gentle, but in center there are two streams with steep slopes that are indicated. Messiah College owns the subject properties. Mumma tract is owned by Rider Musser Dev. Ex A6 represents the proposed development plan developed two years ago. Sheet 7 A2 shows the garden apartments, townhouses, two roads, main road from W. Lisburn Road connecting to Mill Rd.

Mr. Courtney references 245-111B. and asks Ms. Hunter if she has calculated the average slope. Ms. Hunter answers yes, and the average slope of each lot is less than 15%. Ordinance applies if uses are within steep slope areas, which do exist.

Plan is to remove slope where it interferes with buildings, and there will be disturbance to steep slopes in other areas. Process to submit E&S to county has already started, but has not yet been submitted. Ms. Hunter believes plan complies with requirements for steep slopes and special exception.

Ms. Foschi: Looking only for SE to develop multi-family in steep slope areas? Not looking for us to approve a plan?

Ms. Hunter answered affirmatively.

Mr. Saidis asked: In written materials where is traffic addressed? Mr. Courtney answered that the request is only for steep slopes to develop, no completed TIS has been developed at this time. Related only to use on slopes.

Ms. Foschi opened floor to comment from audience:

Rick Moreno 313 Sleepy Hollow Dr. sworn in: Has concerns in regards to the project for 398 units. Increase of traffic and lowering value of their dwellings. Wants the board to consider closing Mill Rd. so there is no traffic between the new development to BBH.

Mr. Wayne Mallon 313 W Lisburn Rd. Has question on slope variances. Are we looking for application just for those minor homes or variance on whole property? Mr. Courtney states that only the first phase of residential that was detailed in the presentation on eastern side of the site is looking for relief.

Mr. Saidis. Looking for SE for Lots 1-4. Is this all Phase 1, or will the lots be developed at different times? Ms. Hunter: This will all be on same preliminary/final. But buildings will be phased.

Ms. Foschi asks: Application is to develop multi-family and community building. Can we limit this request to lot 1-4 as shown on Exhibit A2? Mr. Courtney. Yes we can.

Mr. Dick Karper at 327 W. Lisburn Rd was sworn in to testify. Says this development is the highest part of that farm. Then my concern is, impervious and slope will increase sheet flow of water down towards his home. Ms. Hunter showed a figure of holding ponds near W. Lisburn Rd.

Ms. Jennifer Clarke 2354 Mill Rd was sworn in to testify. She said she was confused about the zoning issues, and the time of the meeting next week.

Mr. Courtney answered: We went through an initial round of zoning amendments. Going through process of a 2nd zoning amendment next week. After that will be land development. Prelim/final plan submitted. That should start in February, we anticipate.

Mr. Robert Fischer 2437 Mill Rd. was sworn in to testify: The steep slopes entail the roadway. If approved tonight, will that road be built?

Mr. Courtney: Yes there is slope there, but the street isn't a regulated use and doesn't require the SE anyway.

Mr Fischer: If they approve tonight, they won't have permission to develop? Mr. Courtney: Correct.

Hearing was closed for public comment.

After discussion on motion duly made by Mr. Scicchitano and seconded by Mr. Steele, it is:

RESOLVED, that the Special Exception requested by the Applicant to develop in the steep slope is hereby granted.

The Applicant shall further comply with all applicable township, state and federal rules, regulations, ordinances and law.

(Motion carried unanimously)

VARIANCE NO. 16-03, RICHARD A. EVANS, VARIANCE REQUEST TO SECTION 245-30

Mr. Richard Evans was sworn in to testify. All others in attendance were sworn in to testify at the same time.

Mr. Evans said he is seeking a variance from the height requirement. Mr. Evans submitted Applicant's 1. States evolving building codes require larger elements today that require larger buildings to compensate, and that twp code not keeping up with those codes is a hardship. Nothing is unusual about the house. 9' 1st floor, 8' 2nd floor, 12' slope on roof. These are standard specs of a new house. House is only 35' deep. Three letters from neighbors stating not opposed, and verbal commitments from others that there is no issue. Only 25% of roofline is above the 35' limit. Mr. Evans believes this is the minimum variance required. Have already adjusted grades as high as possible to compensate. Feels township shares culpability regarding missing the 35' limit.

Ms. Foschi asks for Mr. Evans to provide to the board his Applicant 1. Mr. Saidis also asks that the letter from his wife be submitted as Applicant 2.

Mr. Evans also showed photos of his home under construction, and was submitted as Applicant 3.

Mr. Evans stated there would be significant costs of 8-10k to fix the roof to a 35' height.

Ms. Foschi asked Mr. Welt about history of approval for this property.

Michael Hartig 247 Marshall Ridge, Carlisle. Testified he is the one who notified developer that the house looked too high. Called Cindy Arnold-Steele regarding the height. Disappointed with the height of the house.

Mr Evans showed a cross sectional view of floor to floor height to under side of soffit. Then adding in the truss designs show the total height. You can calculate the height.

Mr. Scicchitano asked: You have a builder building this for you? Mr. Evans: Reynolds Construction.

If the request is denied, would cut the roof down flat at top section and raise the grades in front of house and cut the top of the roof flat. The lower section is within the height restriction.

Mr. Michael Jones of 884 Tolman St. approached the podium for comment. Building directly behind Mr Hartig. Concern about the grade. If he brings the grade up, how would that affect water management from my house down? Second concern, chose the development and School District for same reasons Mr. Hartig did. Chose for how restrictive it is. If this variance is placed, what happens to the rest of the development?

Charlie Courtney is cattycorner to the subject property. Has not met any of his neighbors present yet. Giving perspective on what happened. Height calculable from plan, but not a dimension on the plan. Maybe there should be a dimension on the plan. Weed out bad faith vs. mistake who didn't investigate.

Erica Wentz. Renting at 884 Tolman St. Sworn in. This breaks my heart, terrible situation. She thinks it is clear it was an unintentional error of omission. Also point out we chose Meadowview because character of development limited to Farinelli and Rowland until recently. Don't know if any of this would be avoided if they coordinated with the other builders.

Mr. Evans states owner of Reynolds did coordinate extensively with other developers.

Hearing was closed for public comment.

Board chose to deliberate in executive session at 8:22pm. The Board returned to session at 9:06pm

Board is inclined to announce their decision at the next meeting on February 11, 2016

MINUTES

A motion was made by Mr. Scicchitano and seconded by Mr. Steele to approve the Minutes from the August 10, 2015 meeting. A roll call vote was taken and passed unanimously.

OTHER BUSINESS

There being no other business, the meeting was adjourned at 9:06 p.m.

**MINUTES OF THE MEETING OF THE
UPPER ALLEN TOWNSHIP ZONING HEARING BOARD
February 11, 2016**

The February meeting of the Upper Allen Township Zoning Hearing Board was called to order by the Chairperson, Jean Foschi, at 6:23 p.m. on Thursday, February 11, 2016. In addition to the Chairperson, the following board members were present: Robert Melphis, Gerald Schultz and Donald Steele. Also present was Robert Saidis, Esquire.

MINUTES

A motion was made by Mr. Melphis and seconded by Mr. Steele to approve the Minutes from the January 14, 2016 meeting. A roll call vote was taken and passed unanimously.

**VARIANCE NO. 16-03, RICHARD A. EVANS, VARIANCE REQUEST TO SECTION
245-30**

This meeting was continued from January 14th, 2016.

The Board held an executive session on Monday, January 25, 2016 from 2:06 P.M. to 6:35 P.M. for the purposes of deliberation. In attendance were Jean Foschi, Gary Scicchitano, Donald Steele, and Gerald Schultz. Robert Melphis was not in attendance. Gary Scicchitano is absent at the 2-11 hearing.

Hearing was closed for public comment.

After discussion on motion duly made by Mr. Schultz and seconded by Mr. Steele, it is:

RESOLVED, that the Variance requested by the Applicant to allow a noncompliant section of roofing at a height of 37'2" that exists above the maximum allowed 35' to remain is hereby Denied.

(Motion carried unanimously)

**VARIANCE NO. 16-02, DOLLAR TREE, VARIANCE REQUEST TO SECTION 245-
241C(5)**

This meeting was Continued from January 14th, 2016.

Rebecca Lacher (Lacher), attorney for Dollar Tree was sworn in to testify. The applicant would like to first move to amend initial variance application to include new material dated February 8, 2016. (This material was accepted by the board).

Mr. Ken Sullivan (Sullivan) was sworn in to testify. He is a district manager for the Harrisburg area. Sullivan manages 16 stores including the store that will be located at 2 Gettysburg Pike. Sullivan stated the typical Dollar Tree (DT) sign is 48" for each letter. Sullivan is requesting equal to that or at least 36". The hardship that would be incurred would be to sales. The typical DT shopper is an impulse buyer. Applicant has brought examples (In Feb 8 packet) showing the difference between 48" and 36" signs. OPTION 1 slide, 3rd page is 36" lettering. OPTION 3 slide, 7th page shows 24" lettering. Sullivan testified you can see color, but can't see letters. Sullivan testified that DT has 5500 stores in the nation, signs are standardized. Typically 48" per letter. OPTION 2 slide, 5th page shows 48" with icon, but DT is not seeking approval for this option. Safety is a concern. This is not a destination store, people stop by for impulse. Access points are difficult. The lot can only be accessed from Cumberland Parkway. Most locations for DT have multiple accesses, and this building is set back farther than typical. This location will generate 4 managers and 10 associate employees. The plan is to open in the middle of March. Sullivan was asked if he was aware of any store with 24" letter, and answered he is not.

Kyle Flook (Flook) was sworn in to testify. Flook was hired as the sign installer for this location. Flook did go to the location, and observed other signs in the area. Took pictures. Letters of Applicants 11 (AP 11) are about 36" in height. Rite Aid is set back about the same distance. It appears to be more visible. Ap 13 is Giant. Letters approx. 36" high. Ap 14 is an aerial of the location for DT. Red boxes circle DT and Rite Aid. Ap 15 and 16 show the Subway pole sign. It is Flook's opinion that 24" lettering would be difficult to see. Arby's appears to be 24", and is a blur. Rite Aid and Giant have fewer letters than DT sign would be, resulting in bigger letters for smaller names.

Lacher says we do believe this property is unique. Board has acknowledged twice that the property is unique and awarded relief for signage. Subway location to immediate left of DT, though the renders do not show its signage. Would prefer to have 36" with logo, but it would put us over 100sf. The relief being sought is for 36" lettering without logo for a total of 96.06sf. Though larger than typical allowance, it does not take up much of overall storefront. The storefront will be consistent in appearance of neighboring signs. The signs will be shut off after business hours. Lacher testifies that there will be no residential impact, all commercial space surrounding the sign. Signage is commercially important to advertising for DT. Dollar General had made a similar appeal, and had to close the location when they were denied. The property has been vacant since.

Sullivan stated store hours typically are 8a to 9p, or 9a to 9p. Most likely for this store will be a period of 9a to 9p business hours.

Mr. Saidis, asked if applicant would be willing to stipulate to only operate sign lighting no greater than between 8am to 10pm.

Lacher asks to affirm right to collocate on Subway sign. Mr. Welt read from the ZHB Decision of 12-03 for Subway and it was determined that collocation is permitted by this ruling, but a future, specific variance application for the sign would be required.

Betsy Patterson-Henry (Betsy), Lease Director for Giant was sworn in to testify. Betsy does not support the variance request. Betsy does not believe it is aesthetically pleasing. When Giant applied for letters for Giant gas, their application had to put letters on canopy because it would not be approved otherwise. Betsy does not think there is a hardship. Betsy was asked by Mr. Saidis (Saidis) about the size of the letters on the Giant sign. Betsy responded that she does not know the size of the letters on the Giant sign. Saidis asked: Would you consider them a competitor of Giant? Betsy: yes. Betsy also stated she considers DT to be a destination store.

Hearing was closed for public comment.

NO DECISION AT THIS TIME, EXECUTIVE SESSSION WILL BE HELD FOLLOWING THE REST OF THE HEARINGS TO DISCUSS THIS CASE. Executive Session started at 7:44pm and ended at 8:20pm.

After discussion on motion duly made by Mr. Melphis and seconded by Mr. Steele, it is:

RESOLVED, that the Variance requested by the Applicant to construct a sign of 36” high letters with an area of 96.06sf is hereby granted.

The Applicant shall further comply with all applicable township, state and federal rules, regulations, ordinances and law.
(Motion carried unanimously)

VARIANCE NO. 16-04, CHRISTOPHER MAGNELLI, VARIANCE REQUEST TO SECTION 245 ATTACHMENT 1

Mr. Christopher Magnelli was sworn in to testify.

Mr. Magnelli (Magnelli) states this was an ag building, and was initially intended as general storage for a temporary situation. Occupant is an artist making trophy sized sculptures, no employees. Location is remote and the impact is minimal for the area. Site was originally storage, but am now coming for a variance. However, if we can't get this, we cannot do it. Ms. Foschi spoke of interest in where he is coming from with this, as she had the impression that it was clear last time from Mr. Magnelli that we would never be in this situation again. Magnelli replied that he was just going to have this temporary, but his tenant Boris Kramer could not find other occupancy, and wanted to stay. If he can't do this, he will find a commercial style building. This property previously was granted SE 06-04 for accessory buildings for Ag Storage.

Boris Kramer (Kramer), tenant was sworn in to testify. Kramer distributed brochures. Kramer testified he moved here from Canada and stored his belongings in 3 of Mr. Magnelli's bays. When he began the setup of his workshop, he contacted an electrician to set up his equipment. The Electrician told him to contact the Township about any permits, which he did. Kramer was told by Twp to get a proper Variance from ZHB for approval to do what he does. Kramer is a

blacksmith, with a degree in fine art. He looked for Industrial zoned areas, prices were high and not conducive to artwork. The Bay's at Green Ln are 12' high doors, fresh air good for his work. Ms. Foschi asks: This started when you wanted to connect a machine? Kramer: answered, the power needed is 3 phase for industrial. The machine is a cleaning machine for metal. It runs at about 60 or 70 decibels, not so loud you can't talk in front of it. Other processes include blacksmithing, hand hammering. Foschi asks about fire use. Kramer: Yes, I put the rods in to heat them, then hammer them. Foschi: Smell? Kramer: Smell is propane gas. Foschi: materials? Kramer: Steel, copper, brass and bronze. Foschi: Waste material? Kramer: Very little. No deliveries, no FedEx, no UPS. Foschi: Where do you supply from? Kramer: Adam Glosser and Sons, I pick it up myself. Foschi: Not something you can do at home? Kramer: No, dust is a concern. Foschi: Safety equipment? Kramer: Safety mask/respirator. Mr. Melphis: Does it have to be vented? Kramer: It should be, but the height, and the size of doors mitigates that. I do use an acid for etching, but very little. Mr. Saidis asks: Is that the average size of your work? Kramer: Yes. It is 12" high, 3" wide. Saidis: What is the average price of work? Kramer: The piece I have as an example is \$275. That is an average price. The example sculpture takes half a day to create.

Mr. Brennamen (Brennamen) was sworn in to testify. Brennamen entered photos as exhibits. Photos 1 through 13. Reside at 2020 and 2020a Stumpstown Road. Received a letter regarding the hearing tonight. Brennamen was against the request from 2006. Says several conditions from that hearing are not being met. Open burning occurs periodically. Hours of operation do not meet requirements and occur all hours of the night. Brennamen stopped and distributed a prepared statement with timelines of truck comings and goings to the Board. On Jan 26 2016, installed surveillance camera. On that day 17 trips in or out. Brennamen detailed a series of night and the number of trips that he was able to count, which are provided for in his prepared statement. Brennamen stated some findings of facts: there is an office on the property, dump trucks on property. On Feb 10, flatbed trailer delivering machinery. Experience with Mr. Magnelli is he does what he wants, without regard for rules. Traffic getting worse and worse. There are trailers and dump trucks. Workers with pickup trucks, and crotch rockets, and foreign cars with loud exhausts. Ms. Foschi asks: What is a crotch rocket? Brennamen: a loud foreign motor cycle. Foschi: Is your parent's home in these pictures? Brennamen: No, the pictures are taken from the home, facing Green Lane. Brennamen stated his family owns several properties in this area, homes and a business, Brandy Lane Kennel.

Mr. Fazekas was sworn in to testify. Mr. Fazekas says the Board of Commissioners does oppose the request for the Variance. The Board opposes adding in manufacturing use to the Agricultural Zoning District. Even Mr. Kramer admits he was storing supplies contrary to what is allowed. Applicant hasn't provided a hardship for Variance.

Following this testimony, Mr. Magnelli states that he wishes to withdrawal the request for Variance 16-04 245 Attachment 1.

With this request in mind, the Zoning Board considers the case withdrawn.

Hearing was closed for public comment.

NO DECISION AT THIS TIME, EXECUTIVE SESSSION WILL BE HELD FOLLOWING THE REST OF THE HEARINGS TO DISCUSS THIS CASE. Executive Session started at 7:44pm and ended at 8:20pm.

Having returned from Executive Session, the Board expresses its displeasure with Mr. Magnelli. Ask that Township follow up to see that activity outside of the provisions of Township Code and the 2006 Special Exception ceases on property. A motion was made by Mr. Steele and seconded by Mr. Schultz, it is Unanimous

OTHER BUSINESS

There being no other business, the meeting was adjourned at 8:21 p.m.

**MINUTES OF THE MEETING OF THE
UPPER ALLEN TOWNSHIP ZONING HEARING BOARD
April 14, 2016**

The April meeting of the Upper Allen Township Zoning Hearing Board was called to order by the Chairperson, Jean Foschi, at 6:08 p.m. on Thursday, April 14, 2016. In addition to the Chairperson, the following board members were present: Gary Scicchitano, Gerald Schultz and Donald Steele. Also present was Robert Saidis, Esquire.

MINUTES

A motion was made by Mr. Steele and seconded by Mr. Schultz to approve the Minutes from the February 11, 2016 meeting. Correcting error of January/February in initial paragraph. A roll call vote was taken and passed unanimously.

**VARIANCE NO. 16-06, DOLLAR TREE, VARIANCE REQUEST TO SECTION 245-
239A**

Jennifer Boyer (Boyer), Zoning Officer of Upper Allen Township was sworn in to testify. Giving the opinion of the Board of Commissioners, Boyer indicates the BOC did not give a cohesive action at April 6 BOC, but recognize there is a business at site with need for signage. As a variance case, BOC ask that the ZHB review it as variance, and consider the hardship. Applicant has received one variance already.

Rebecca Lacher (Lacher), attorney for Dollar Tree was sworn in to testify. Considers this a minimal intrusion of rules. Only seeks a 24sf sign, same dimensions as Subway, and erected below Subway.

Kenneth Sullivan was sworn in to testify. He is market manager for Dollar Tree. He testified that the application as presented is what they are seeking a variance for now.

Lachler states hardship for this sign is the visibility, due to elevation and grading. And that ZHB has already recognized the need for signage. Considers denial being treated differently from other tenants in plaza. Lachler does not consider visibility from Gettysburg coming towards Cumberland Parkway to be acceptable.

Robert Mastandrea (Robert), Director of Facilities Management & Operations for Vastgood Properties, LLC was sworn in to testify. Vastgood objects for this variance. Considers this sign pollution, sets prescedent for multiple signs in future. Thinks their existing signage is sufficient.

Mr Schultz asks: Do you have any plans to come back for more? Lachler: No. We do not intend to come back for any additional signage for Dollar Tree facility. Would be amenable to being barred from receiving any new wall or pole signs as would need variances.

Robert asks: If representing the fee owner, this goes to Mr. Schultz's point about sign pollution. Lachler, I do not represent fee simple owner. Only Dollar Tree.

Hearing was closed for public comment.

ZHB entered executive session at 6:35. ZHB returned from executive session at 6:39.

After discussion on motion duly made by Mr. Scicchitano and seconded by Mr. Steele, it is:

RESOLVED, that the Variance requested by the Applicant to erect a 24sf sign on the existing ground pole of the property for multiple users, below the Subway sign is hereby granted.

The Applicant shall further comply with all applicable township, state and federal rules, regulations, ordinances and law.
(Motion carried unanimously)

OTHER BUSINESS

There being no other business, the meeting was adjourned at 6:40 p.m.

**MINUTES OF THE MEETING OF THE
UPPER ALLEN TOWNSHIP ZONING HEARING BOARD
November 10, 2016**

The November meeting of the Upper Allen Township Zoning Hearing Board was called to order by Chairperson, Jean Foschi, at 6:00 p.m. on Thursday, November 10, 2016. In addition to the Chairperson, the following board members were present: Gary Scicchitano, Robert Melphis, Gerald Schultz and Donald Steele. Also present was Robert Saidis, Esquire.

MINUTES

A motion was made by Mr. Melphis and seconded by Mr. Schultz to approve the Minutes from the April 14, 2016 meeting. A roll call vote was taken and passed unanimously.

**VARIANCE NO. 16-07. CHRISTOPHER MAGNELLI. SPECIAL EXCEPTION
MODIFICATION REQUEST TO SE 06-4 (JULY 2006)**

Mr. Welt indicated proper notice was given for Variance 16-07, advertised in the Carlisle Sentinel on Thursday October 27th and November 3rd. Adjacent property owners were notified by mail.

Hanna Shurr (Shurr). Law office of Andrew Shaw, represents Mr. Magnelli. The Applicant feels some of the conditions are too restrictive and are seeking modifications specifically to condition I, hours of operation sunrise to sunset. Applicant is asking for one hour before sunrise to one hour after sunset; and no restrictions for snow and salt activities. Applicant also seeks clarification of the permitted use. Looking for a clarification of exactly what that means, and to allow for Landscape and other agricultural uses and those permitted by the zoning officer for certificate of use and occupancy. The modification of Condition G, the applicant is not going forward with. The applicant feels that none of the changes would change the spirit of the SE, nor would adversely affect neighbors.

Christopher Magnelli (Magnelli) was sworn in to testify. Magnelli described the subject property as property off Stumpstown Road in Upper Allen Township. -Exhibit A-1 was distributed to the board- Seeking modification to SE because he is having problems staying in compliance. The tenants have to work when required, dawn to dusk is a problem. Over the past 10 years, many landscapers have applied. After seeing the list of rules, most times they reject them and they go elsewhere.

With regards to hour limitation: Guys have to operate when they need to, which goes past the allotted time. Magnelli is looking for relief on that. Also snow removal happens off schedule. Emergencies such as snow removal happened 1 time last year.

Expanding landscaping operations: Guys have multiple hats. Hardscaping, snow removal as examples. Feel asking for companies who are substantially similar. Decks, tree trimming,

pressure washing. Value added services. - Exhibit A-2 was distributed to the board- Information on what landscapers typically do.

Nature of neighborhood: With exception of Stumpstown Road, very rural without a lot of traffic. On Stumpstown Road, a lot of traffic. Traffic varies, but is frequent in the mornings and afternoons. Type of vehicles are commercial, residential, buses, trucks. Commercial vehicles travel at all hours of the day. Often starting at 5 am, school busses before dawn. Plenty after dusk.

Nearby businesses include kennel, nursery, church. -Exhibit A-3 was distributed to the board- includes west shore free evangelical church. Naugles sweetmeadow greenhouses, cows. This exhibit is to show purposes and nearby businesses.

This will not change current condition of traffic.

Ms. Jean Foschi (Foschi) asked questions: I was one of the members of the board who executed the 06-4 decision. Originally was landscapers, a mowing company. Want to know what changed since. No offices, no plumbing, no bathrooms. Tanbark. stone pavers exist? Doubled because have two buildings. How much traffic in 2006? 7 trucks were there. Now there are 10 trucks. Are there any additional tanbark or stone pavers? Magnelli replied 'No'. Magnelli, you testified in 2006 that there were few trips, with 7 trucks. Now there are ten, anything changed? Magnelli- Not much. 10 trips per day roughly, but maybe more. Don't know exact number. Now keep some of my personal things in one of the bays. Not landscaping things. Personal items.

Foschi- Do you still have 60 arborvitae? Magnelli- Yes, still have them. Have another shipment of arborvitae and fir trees coming in. Planted as a perimeter. Foschi- Testified in 06 that in winter little to no use of pole barns has that changed? Magnelli- Yes, new tenants do use it through the year more. Total tenants now are 4. There are 5 bays in original pole barn. The new pole barn has 5 bays as well. Foschi- 10 bays but 4 tenants? Magnelli- Correct. Foschi- Still intend to rent to landscape contractors only? Magnelli- Yes. Foschi- You stated you were willing to accept conditions No debris, no tractor trailer deliveries? Magnelli- Still true. Foschi- Application section D, 3. Speaks to concrete work, retaining walls, pressure washing. Magnelli- But not bringing concrete or residue back to property. Have tenant that does concrete. But nothing coming back to property from the concrete job. All he does is grab equipment and go. Foschi- What kind of equipment? Magnelli- Bobcat, rake, shovels. Foschi- Is the concrete tenant here this evening? Magnelli- No. I submit a letter he had written. -Exhibit A-4 was distributed to the board- Letter from Hunter Concrete. Foschi- So this is a concrete contractor? Magnelli: And also landscape contractor.

Foschi- So, other question about increasing hours of operation. Mr. Welt was asked about normal hours for landscapers other places. Welt stated there are no limits, but businesses are expected to keep peace and good order between hours of 10pm and 6am. Foschi- I want to clarify about neighboring businesses: Do they have access on Williams Grove Rd? Magnelli- Yes, and Stumpstown. Foschi- And yours is only Stumpstown. Magnelli- Yes

Mr Schiccitano- Landscapers would like to use optimal sunlight. They want to get to job at dawn, and pack up at dusk. So that's very significant, those hours? Magnelli- Yes.

Schiccitano- will you want to change this again later? Magnelli- Not the intent, but this window

seems to allow us to be in compliance, based on traffic when it occurs. I live on the land. Trucks come down next to my home.

Mr. Welt was asked about enforcement actions taken. Mr. Welt stated there had been conversations with Magnelli about hours and about tenants. Welt stated that have tried to pull property into compliance. Looking for Board direction on what Landscape Operation in accessory to an active nursery is.

Foschi- And Mr. Magnelli we were here recently with another tenant who was out of compliance? Boris, yes essentially.

Shurr- Mr. Magnelli, have you seen landscapers go from strictly landscaping and become multi-faceted? Magnelli- Yes.

Schiccitano- The other pole barn erected? Magnelli- Valid building permit, and with all the rules and regulations attached with SE.

Mr. Melphis- How far off Stumpstown Road? Magnelli- 600 to 800 feet.

Mr. Saidis- Mr. Magnelli, you live at 1090 Green Lane. Magnelli- Yes. Saidis- Front on Stumpstown Rd? Magnelli- No, front on Green Lane. Saidis- Direction? Magnelli- To the north is Eberly farm, east is two residences and Eberly and Strock Farm. South is Naugle Nursery and Strock Farm. To West is Concannon residence, Stumpstown Rd and Brandylane Kennels.

Saidis- You indicated you have 4 tenants now? Magnelli- Actually 5. 1) Hunter Concrete. – Landscaping and Concrete. Saidis- is concrete main business? Magnelli- Yes. 2) Green with Envy Landscape. – Landscape hardscape. 3) Gutshall Landscaping. – Landscape hardscape. 4) Lawn Butler. – Landscape hardscape. 5) Curb Appeal. Landscape and power washing kennels. Saidis- So Green with Envy? Landscaping (Yes) lawn mowing (yes) Shrubbery and trimming plants. Saidis- Gutshall? Magnelli- Same, and snow removal. All are doing the snow removal. Saidis- So when talking about landscaping, mowing lawns, taking care of plants, tanbark. Saidis- Lawn Butler? Magnelli- The same. Foschi- From applicants Exhibit A-2. Magnelli- Lawn butler does mow mulch weed and feed, irrigation, stone walls patios, firepits, borders, snow removal for commercial customers. Gutshall information here too, so is Green With Envy. Curb Appeal website: patio deck, fences landscaping.

Foschi- You don't know what they do, as you testified. Magnelli- I ask and observe, if see something out of compliance, I try to reign it in. Over last two years, can't get a landscaper to rent from me. Foschi- Do you provide them with what they have to comply with? Magnelli- Yes. And you find me stretching, I am not in compliance, but I want to be in compliance.

Foschi- Tto rent, and then ask for forgiveness? I get that you would come here asking for help. I understand you have to make a living.

Saidis- How large is your tract? Magnelli- 10.2 acres, with a house two pole barns, a regular old barn from the beginning. Use acres for nursery? Magnelli- Yes use 1 acre, getting ready to plant again. Saidis- What is in the nursery. Magnelli- Will be douglas firs and arborvitae. Used what we could, have to replenish it. Had weeping cherries, forsythina and other common plants.

Saidis- Run as business? Magnelli- No. Shurr- It is for the use of the landscapers who rent from him. Saidis- Do your tenants plant? Magnelli- Gutshall have their own plants. But I have my plantings as a service to tenants.

Saidis- Back to tenants. How many trucks does Hunter have? Magnelli- 1 dump truck. 3 pickups.

Saidis- Green With Envy? Magnelli- 1 dump truck 3 pickup trucks.

Saidis- Gutshall? Magnelli- Have 4 dumptrucks.

Saidis- Lawn Butler? Magnelli- Has 2 pickup truck.

Saidis- Curb appeal? Magnelli- has 1 pickup truck.

Saidis- Hunter? Magnelli- 2 stay there. Green With Envy: 2 stay. Gutshall: 4 stay. Lawn Butler: No trucks stay. Curb Appeal: No trucks stay.

Saidis- Still using parking spaces designated by Twp? Magnelli- We park between the building/ There are no tractor trailer deliveries. We have one tanbark bay and can only fit so much in it. Only one stores tanbark. Gutshall.

Saidis- No one changing oil or maintain? Magnelli- No, sharpen blades maybe.

Saidis: The 06 decision, the active nursery in A, B and ½ of C. Magnelli- Reconfigured and combined A, B and C in one spot. Total area is still roughly the same, square footage. Saidis- Nursery was 1 acre out of 10? Magnelli- It may.

Mr. Steele- Is the barn rented for anything? Magnelli- No.

Schiccitano- Withdrawling request for G? Shurr- That is correct.

Schiccitano- Is there any maintenance going on now? Magnelli- I can't be sure, but they have been informed, but can't see what happens behind closed doors.

Rick Krout was sworn in to testify. Mr. Krout stated he lives at 105 E Elmwood Ave, Mechanicsburg. With Lawn Butler Landscaping, as a landscaper we are property managers. Mow, fertilize, anything they need. Pressure washing. Includes snow removal in winter. An array of different services, the more we can provide customer, the better chance of getting customers. Foschi- Is this the only place you do business? Krout- That and my house. Service equipment at Kerry Lawnscape, or at my house. Foschi- Hardscape, borders, stonewalls, fences? Krout- Yes do these things. These items are purchased and delivered on site. Foschi- Lighting work? Krout- Low level lighting, landscaping, low-voltage. Shurr- Hours you work? Krout- Like with Daycares. Beneficial to be there when it is first light, mow it and leave. Best to be gone before kids get there. And working until dark to get them done. Would like to unload after it's too dark to work.

Fred Hummel was sworn in to testify. Mr. Hummel states he lives at 112 Woodside Drive, Mechanicsburg. With F.Hummel and Sons LLC. Using DBA Of Gutshall Landscape, bought in 2011. We keep 4 trucks there. Multiple trailers, have a number of commercial tractors of various sizes and types. Bring one person in at 7:30 to load, then the others who get in at 8 can get on the road. Diverse clientele. Churches, doctor's offices, schools. Come back at night, offload, out till dark. Remove equip. Have 6 backpack blowers, 8 weedwackers, edging machines. Run back and forth. We are not mechanics, but might change lightbulb in truck. Do not surface equipment. We might add a quart of oil to the truck on occasion. In winter we have 5 trucks we use for plowing. Take care of dialysis centers, doctors offices, outpatient surgery. Last year dialysis centers were open 7 days a week. Open at 5 am. Can't predict snow. Foschi- You fuel your equipment at end of the day? How much are you keeping? Hummel- Keeping 1 gallon containers that go with equipment. Mixed for weedwackers and blowers. 2 gallon cans for push mowers. Schiccitano- Storing 50 gallons in the bay? Hummel- That would be pushing

it, but yes. We have diesel and regular. Have mixed ethanol for two cycle. Not a large quantity of fuel. Have a propane tank to make lunch. Foschi- This the only bay you use? Hummel- Three bays on this property, and yes.

Saidis- How many days a week you work in summer? Hummel- 5 hopefully. 8 hour days. But customers have demands, and we do branch out. Stretching out. Build a wall around flower garden. Trim trees with a pole saw. Do care a lot about the snow. Dialysis and surgical centers. Gotta get there or they die.

Foschi- Anyone from audience have comment?

Paul Brenamen II was sworn in to testify. Mr. Brenamen testified that he lives at 220 Stumpstown Rd. Brenamen proceeds to hand out papers. -Exhibit Brenamen 1 was distributed to the board- There are some papers there, and a text of what I want to talk about. The first building was constructed without permits. I was at the BOC meeting in Feb of this year. And it was the position of Twp that Mr. Magnelli did not show a hardship. My record shows 155 trips in and out over 4.5 days in January. Reinstalled my camera in October again. On certain days: 34 trips, 48 trips, 51 trips, 21 trips, 70 trips, 32 trips. Averaging over 40 per day. In 2006 Mr. Magnelli said, very few trips during the day. Pole barn very seasonal. The number of trips are not very few. Zoning Office was there previously, and Mr. Welt instructed him to remove it. Manufacturing up close to a year, and only was revealed due to PPL. Large air conditioned trailer, and large boat being stored, not agriculture. Have dialog between potential tenants. Mr. Magnelli has repeatedly put the same ads on craigslist. He is the one who created the hardship. I wouldn't be here tonight if he was in compliance. A NAPA pickup truck is there regularly. A large fuel truck goes back. There are more than 5-10 fuel cans.

Saidis- I have a question about the picture here? Brenamen- That shows the first pole barn.

Mr. Lou Fazekas, Upper Allen Township Manager was sworn in to testify. The Board doesn't normally send rep unless opposed. But in this case, is opposed to Special Exception. History of non-compliance since very beginning until right now.

Tricia Noggle was sworn in to testify. Ms. Noggle lives at 2171 Stumpstown Road. Own a nursery. Noggles greenhouses. We share the unfinished road (Green Lane) that separates our properties. Yes, there is more traffic, but we share that dead end lane with 3 residences and access to one of our buildings. Activity does not interfere with ability to use the road. Regarding the hours. Did not know there was compliance issue for Chris (Magnelli). But there are many people in neighborhood that work before 6. Having once worked for Landscapers, understand value of working before those hours.

Corey Noggle was sworn in to testify. Mr. Noggle lives at 2171 Stumpstown Rd. I am Tricia's husband. A former member of PA nurserymans association, and accredited. To be a member, you can put decks on houses. You can be a member if you do SOME type of landscaping. Some put on decks, some do concrete around pools. If you just did pool work, you can be part of PA Nurserymans association. Foschi- nursemans? Noggle- They don't call it that anymore. Now called Pennsylvania's Accredited Landscapers.

Patrick Concannon was sworn in to testify. Mr. Concannon lives at 2057 Stumpstown Road. Even with minor increase of vehicles. Very little do we hear on property. Right along the lane. House sits 500 feet away from the lane. Can hear truck bouncing, it is a stone road. But up by 6

am to get kids ready for school. Daughters bus comes at 6:50am. Don't notice any major increase in noise.

Alicia Shaffer was sworn in to testify. Ms. Shaffer lives at 1090 Green Lane. I live here, and know what happens when Chris is trying to find a renter. Chris is painted with a bad brush sometimes when he comes to twp. Forthcoming with all information with Mike. Has inspected all bays, know what is happening. Understand this is frustrating, because we were here in 2006. Have learned over time we can't fit in the box from 2006. Want to be in compliance, so we are asking for these things. Schiccitano- When was the 2nd building built? Shaffer- Built 4 years ago, give or take.

Foschi- Is this your advertisement? Can you read it? Is that in compliance? Shaffer- No, great for storing toys and materials. Agree that is an inappropriate ad. We have had the craziest applicants for this building. If they aren't under the umbrella, we don't take them.

Shurr made a closing statement: Thank you for this opportunity. Restate what we are asking for. Expansion of I, to get 1 hour before sunrise, and 1 hour after sunset. And clarification and expansion of term Landscape Operations, to '... and agricultural operations after certificate of use and compliance from Zoning Officer'.

Hearing was closed for public comment.

ZHB entered executive session at 7:37. ZHB returned from executive session at 8:05.

Motion by Jean Foschi for Approval allowing for hours of operation of property restricted to 1 hour before sunrise, and 1 hour after sunset, with an exception for 24 hour operation for snow removal and salting

After discussion on motion duly made by Mr. Melphis and seconded by Mr. Steele, it is:

RESOLVED, that the Special Exception 06-4 Modification requested by the Applicant to (HOURS) is hereby granted (Unanimous).

Motion by Jean Foschi for denial allowing landscape and other agricultural applications with the approval of Twp Zoning Officer.

After discussion on motion duly made by Mr. Scicchitano and seconded by Mr. Schultz, it is:

RESOLVED, that the Special Exception 06-4 Modification requested by the Applicant to (TENANTS) is hereby denied (Unanimous).

The Applicant shall further comply with all applicable township, state and federal rules, regulations, ordinances and law.
(Motion carried unanimously)

OTHER BUSINESS

There being no other business, the meeting was adjourned at 8:09 p.m.