

**South Harrison Township
Planning/Zoning Board of Adjustment
February 11, 2013**

The South Harrison Township Planning/Zoning Board of Adjustment held a regular meeting on February 11, 2013 at 7:00 p.m. in the South Harrison Township Municipal Building.

The meeting was called to order by Joseph Marino, Board Chair and led those present in the Pledge of Allegiance to the Flag.

Requirements of the "Open Public Meetings Act" were met.

Roll Call: James McCall – present, John Horner – present, Thomas Sorbello – present, Melvin Robertson – present, Joseph Marino – present, Heather Brown – present, Joseph Wille – present, Stephen Galati – absent, Ronald Ambruster – present, Daniel Webster – present (L 7:05), John Maybrook - present, Gary Thompson, Board Solicitor – present, Steven Bach – Board Engineer – absent, Candace Kanaplue – Township Planner – present, Celeste Keen, Secretary – present.

Minutes:

Motion to approve the reorganization and regular minutes of January 14, 2013 was made by James McCall, second by Heather Brown. **Motion carried.**

James McCall, John Horner and Joseph Wille stepped down due to conflict. Daniel Webster arrived and took his seat on the Board.

Old Business:

**South Harrison 500 Associates – 002-326-12
Interpretation / Use Variance in the Alternative**

William Ziegler, attorney for the applicant, noted that the applicant before the Board is not associated with the previous owner. Under the current ownership all flea market activities have ceased to continue.

Gary Thompson noted that he has Resolutions R- 04-05 granting an interpretation that a self storage facility is a permitted use in the Light Industrial zone; Resolution R-04-26 granting preliminary and final site plan approval for construction of a mini self storage facility and related site, utility and landscaping improvements; and a summary of Municipal Regulation of Garage and/or Yard Sales in Gloucester County as prepared by the applicant's attorney.

Mr. Ziegler introduced Terrence Combs – Planner for the applicant, Randall Mosca – Director and CFO of South Harrison 500 Associates and Samuel Crane – Consultant for the applicant, all were sworn in to give testimony.

Candace Kanaplue – Township Planner was introduced and sworn in to give testimony.

Mr. Combs advised the Board regarding the location and design of the property in question. Mr. Combs was involved during the initial approval process.

Mr. Ziegler noted that South Harrison Township has no regulations regarding yard/garage sales. Mr. Marino explained due to South Harrison Township rural nature it has not been an issue to require regulation.

Mr. Robertson questioned the frequency of the intended sales. Mr. Mosca advised that they would like to have them held on the weekends and one (1) day during the week.

Mr. Ziegler referenced home occupation is allowed – Mr. Marino stated that they would not be Home Occupations they are not residents.

The Board asked about the regulation of items being sold. Who would police the sales? Mr. Ziegler stated that that would have to be clarified with the new owners.

Ms. Kanaplue testified that a garage sale implies that the sale is an occasional non-commercial activity generally associated with a residential use. The sale of inventory and merchandise alters the use of the property and would not be considered customarily accessory to the use of the property as a storage facility.

Mr. Robertson asked Ms. Kanaplue if she was aware of any other “Community Yardsales”. She advised that in Medford there is a preserved farm, it’s called a Farm Mall but is not sure of the particulars.

Mr. Combs noted one in Hammonton similar in size. Open Friday through Sunday. There appeared to be 4 or 5 vendors with three (3) people in an hour’s time seen shopping. He was told there were approximately 20 vendors at the peak of the season. Berlin is another location, similar in nature with 15 vendors.

Ms. Kanaplue asked the applicant how many storage units are currently available. She was told approximately 500.

Mr. Ambruster suggested limiting one day per month to help the renters sell their contents without inviting vendors. Mr. Ziegler advised that three days per week was one of the requested stipulations.

Mr. Asselta of Brown & Connery, representing the residents living behind the Self Storage facility, stated his concerns regarding bifurcating the application. The application was submitted combined and therefore should be heard together. Mr. Asselta requested clarification as to what exactly is being proposed.

Mr. Asselta referenced the self storage act and argued the flea market does not fall under that umbrella. Quoted Ms. Kanaplue letter dated December 4, 2012 on page 3 of 6, “The applicant’s proposed use is a business venture which provides space to sell goods in exchange for the rental of a storage unit. Though there are no long term leases for the merchants that may set up a table, the use of the area to sell merchandise nevertheless alters the use of the site and would not be considered customarily accessory to the storage use.” Mr. Asselta stated that according to the South Harrison Township Land Use and Development Ordinance Section 90-3.34A & C regarding supplemental design criteria for warehouse and wholesale storage facilities. It is his opinion this is not a permitted accessory use.

Motion to deny requested interpretation of the South Harrison Township Land Use & Development Ordinance that “community yard sales” are an accessory use in the Light Industrial zone was made by Melvin Robertson, second by Daniel Webster.

Roll Call James McCall – abstain, John Horner – abstain, Thomas Sorbello – yes, Melvin Robertson – yes, Joseph Marino – yes, Heather Brown – yes, Joseph Wille – abstain, Stephen Galati – absent, Ronald Ambruster – yes, Daniel Webster – yes, John Maybrook - yes
R.C.V.: 7 – yes’, 0 – no’s, 3 – abstentions. Motion carried.

Mr. Marino advised that the Use Variance portion of the application will be heard after a five (5) minute recess.

Mr. Marino called the meeting back to order.

Mr. Ziegler called Mr. Mosca & Mr. Crane forward to testify. Mr. Mosca is Director and Chief Finance Officer as well as the Operating Director. The property was acquired in mid July 2012. In the beginning the sales continued, when they learned of the conflict with the Township the sales ceased. It is South Harrison 500 Associates intention is to be a long term business owner within the Township. They are looking to grow the intended business and thought that the previous owner's idea made sense. Open air tables would not be permitted and would be limited to three days per week. A full time and part time site manager are to be available during operations. Applicant would consider additional buffering.

Mr. Combs reviewed South Harrison Township Master Plan. Entered parking diagram into evidence, it was marked as exhibit A-4

Mr. Combs testified that this is the only zone that would be suitable. This site in particular is suitable due to the access of a county road. In Mr. Combs' opinion no negative impact(s) are associated with the proposed improvements. Any activity increase during the hours of operation would have minimal impact. Increase in build out increases the tax base of the Township. The sizes of the units: the smallest is 4500 sq ft and the largest is 7800 sq ft.

Ms. Brown inquired as to the current occupation of the storage units. She was told approximately 60 to 65% occupied.

Mr. Sorbello noted summer shore traffic may be heavier than what may be factored. Mr. Masco noted that they did see traffic in July of 2012 and don't see it being an impact.

Mr. Ziegler asked Mr. Combs if there are any other properties in South Harrison Township where this could be utilized. Mr. Combs noted, not to his knowledge. Mr. Ziegler asked that the prior owner's activities not be entertained in tonight's determination.

Ms. Kanaplue referenced her letter dated December 4, 2012. For "D" variances it is the applicant's obligation to present the "Positive" and "Negative" criteria to justify the variance.

Mr. Asselta asked Mr. Mosca if he would be able to clarify which two buildings would be used. Mr. Mosca stated that he is not able to determine at this time. When asked if there would be any other business(es). Mr. Mosca advised none that are not related.

Regarding the U-Haul trucks on site, was U-Haul rental approved at time of initial use variance? Mr. Mosca stated that the U-Haul activity began upon his ownership. It is an accessory use in all of his self storage facilities. Truck rentals, boxes and moving supplies are offered. Two (2) to three (3) trucks average on site. U-Haul is separate entity but they direct fees, commissions are earned.

Mr. Mosca was asked if he was aware of ASAP Auto Glass doing business from one of the units. He stated that he had no knowledge of ASAP Auto Glass or any operations within any of the units.

Mr. Mosca was asked if he was aware of a small engine repair business in one of the units. He stated that he had no knowledge.

Open Meeting to the Public:

Motion to open the meeting to the public on this matter only was made by Heather Brown, second by Melvin Robertson. **Motion carried.**

August Calhoun of 106 Pancoast Place appeared and was sworn. His property abuts the self storage facility. Has lived there for 10 years; over the past year and a half the sales have been held. A generator was started early to facilitate food vendors which were located close to the portable lavatories. People are parking along Tomlin Station Road as well as Pancoast Place. Mr. Calhoun obtained a police report showing the number of accidents along Tomlin Station Road between High Street and Franklinville Road. Children approached for sale of wares, not sure when.

Mr. Ziegler objected to the police report being submitted into evidence. Mr. Thompson advised that it would not be admitted into evidence. Mr. Calhoun summarized the police report. Open trash cans allowed trash to blow onto residents properties. Current berms are not acceptable barriers to the activities that had occurred. He advised that he was in attendance at the initial approvals in 2004. Promises were made that there would be low traffic associated with a self storage facility.

Ronald Moore of 208 Shivers Run Court appeared and was sworn. He has lived there for 14 years. President of Home Owners Association (HOA) for seven (7) years, HOA opposes the application. A letter which contained approximately 40 signatures, opposing the requested use, would not be admitted as evidence. Mr. Moore has witnessed the parking, trash, noise and propane sales. Can testify as to the traffic – a blinker has been installed due to the incidents at the intersection Tomlin Station and Franklinville Roads. Self storage was the only use that was proposed by Mr. Pacilli, the former owner.

Trisha Valcich of 108 Pancoast Place appeared and was sworn. Her property abuts the self storage facility has lived there for 10 years and has witnessed the same issues as the previous witnesses. She opposes the proposed application.

Michael Garwood of 212 Shivers Run Court appeared and was sworn. He advised the Board that he is opposed to the flea market. He does not want another Cowtown.

John Schmidt of 112 Pancoast Place appeared and was sworn. South Harrison Township would not profit from a flea market. There is a definite fire hazard with a lawnmower repair business being operated within one of the storage units. Mr. Webster asked if Mr. Schmidt had witnessed the lawnmower repair. Mr. Schmidt advised that he had spoken with the lawnmower repair shop owner within the storage unit.

Maureen Phillips of 102 Pancoast Place appeared and was sworn. Her current residence is the second home they have owned within the same subdivision because of the tight community. She can see the self storage facility from her home. She has called South Harrison Township many times over the years with complaints about the berm not being maintained. Ms. Phillips attended the meetings when the self storage facility was being proposed

Tracey Thompson of 214 Shivers Run Court appeared and was sworn. Opposes this application; she visited the "community yard sale" in late summer 2012 and witnessed extremely unsanitary conditions. She stated that the revenues gained by the Township would not equal the lack of safety to the neighboring residents.

John Alger of 109 Pancoast Place appeared and was sworn. He stated that he opposes this application. At the time he purchased his home he was told that the property of Block 2, Lot 2 was preserved farmland which he later found to be untrue when the previous owner proposed the self storage facility. He has witnessed knives and brass knuckles being sold in the back of a van at one of the "community yard sales".

Thomas McAndrew of 205 Shivers Run Court appeared and was sworn. He is from NE Pennsylvania, has been to flea markets and does not want one at the proposed location.

Jennifer Calhoun of 106 Pancoast Place appeared and was sworn. She opposes the application. As a mother, she does not want to fear for her children's safety. Who is going to monitor what is being sold?

Lori Plitt of 110 Pancoast Place appeared and was sworn. She opposes the application.

Lisa Schmidt of 112 Pancoast Place appeared and was sworn. She opposes the application and agrees with her neighbors.

Ken String of 216 Shivers Run Court appeared and was sworn. He opposes the application.

Lawrence Rothstein of 104 Pancoast Place appeared and was sworn. He opposes the application. His property abuts the self storage facility and does not feel it would be safe for his three (2) teenage daughters. He agreed to the self storage facility at the time it was proposed, this application is not what was agreed upon.

Dennis Phillips of 102 Pancoast Place appeared and was sworn. He advised that his back yard abuts the self storage facility and he does not want a flea market in his back yard.

Tom Valcich of 108 Pancoast Place appeared and was sworn. He questioned the Board Members how would further growth be controlled. Use was previously agreed upon in prior approval.

Close Meeting to the Public:

Motion to open the meeting to the public on this matter only was made by Daniel Webster, second by Thomas Sorbello. **Motion carried.**

Mr. Asselta stated that the applicant must meet the positive and negative criteria. It is his opinion that neither has been met.

Mr. Ziegler stated that the Board is able to allow this business owner to bolster his business. The site is well suited for the proposed application.

Mr. Thompson advised the Board that the burden of proof is on the applicant to meet the positive and negative criteria. It is Board's duty to determine whether or not the proposed use is customarily associated with and subordinate to the principal use.

Motion to deny approval of a Use Variance was made by Thomas Sorbello, second by Heather Brown.

Roll Call: James McCall – abstain, John Horner – abstain, Thomas Sorbello – yes, Melvin Robertson – yes, Joseph Marino – yes, Heather Brown – yes, Joseph Wille – abstain, Stephen Galati – absent, Ronald Ambruster – yes, Daniel Webster – no, John Maybrook - no

R.C.V.: 5 – yes, 2 – no's, 3 – abstentions. Motion carried.

James McCall, John Horner and Joseph Wille resumed their seats on the Board.

Farmland Preservation Plan

Candace Kanaplue advised the Board that the grant extension has been approved by the State. The forms and draft will be completed and ready for review shortly.

Open Meeting to the Public:

Motion to open the meeting to the public was made by James McCall, second by Daniel Webster. **Motion carried.**

No public spoke.

Close Meeting to the Public:

Motion to open the meeting to the public was made by Ronald Ambruster, second by John Horner. **Motion carried.**

Payment of the Bills:

Motion to approve payment of the bills was made by Joseph Wille, second by Ronald Ambruster.

Roll Call: James McCall – yes, John Horner – yes, Thomas Sorbello – yes, Melvin Robertson – yes, Joseph Marino – yes, Heather Brown – yes, Joseph Wille – yes, Stephen Galati – yes, Ronald Ambruster – yes, Daniel Webster – present, John Maybrook - present

R.C.V.: 9 – yes’, 0 – no’s, 0 – abstentions. Motion carried.

Adjournment:

Motion to adjourn was made by Heather Brown, second by James McCall. **Motion carried.**

Respectfully submitted,

Celeste Keen
Board Secretary

Information

ONLY