

Manor Township Zoning Hearing Board Minutes

Wednesday, August 2, 2023

Time: 7:00 p.m.

Chairman Bradley Singer called the Manor Township Zoning Hearing Board meeting to order in the Manor Township Municipal Building located at 950 W Fairway Dr, Lancaster PA 17603 on July 5, 2023 at 7:00 p.m. Chairman Singer led those in attendance in the Pledge of Allegiance and introduced the Board.

Members Present: Bradley Singer, Dennis Funk, and Scott Ream

Staff Present: Nate Taggart, and Peg Hess

Township Solicitor: Susan P. Peipher

Visitors: See attached Sign-In Sheet

Previous Month Minutes – Dennis Funk made a motion to approve the July 5, 2023 meeting minutes as they have been submitted. Jeff Klugh seconded, and the motion carried unanimously.

New Business

Case #8-2023: Applicant: Royal Buck, LLC, 5321 Meridian Blvd, Warrington, PA 18979. The applicant is requesting a Special Exception to Section 425-17.C(7) to permit a Commercial Day-Care Facility. The applicant is also seeking Variances to Sections 425-17.E(1) (Parking lot setback), 425-17.K (Screening), 425-17.M (Dumpster setback), 425-40.B(1) (Access drive setback), and 425-67.A (Outdoor play area requirements) of the Manor Township Zoning Ordinance. The property in question is located at the corner of Centerville Rd & Royal Rd, Lancaster, PA 17601, Tax ID 410-03043-0-0000 and is in the General Commercial (GC) Zone.

Solicitor Peipher explained the procedure that the Board will follow for the hearing. Nate Taggart confirmed to Solicitor Peipher that this hearing was properly advertised in accordance with the MPC and the Township Zoning Ordinances.

Peter Wertz, McNees Wallace & Nurick LLC presented members of the Kiddie Academy Organization, property owners and franchisees. Mr. Wertz handed out Exhibit packets marked as one and two. The second Exhibit is the concept plan which is attached to the application. The first Exhibit is an aerial map of the property.

Per Exhibit one, the property consists of approximately 1.79 acres, located east of the intersection of Royal Road and South Centerville Road. This is in the General Commercial Zone. The property is vacant and unimproved. It is a unique property both in a locational and a configuration perspective. The applicant is proposing to construct a Kiddie Academy, a daycare facility with over 300 locations nationwide. Utilizing classroom and outdoor areas to help young learners grow and develop skills.

The applicant is requesting a Special Exception to Section 425-17.C(7) to permit a Commercial Day-Care Facility.

A de minimis dimensional Variance from Section 425-17.E(1) (Parking lot setback), to permit small portion of impervious cover to encroach approximately 5.2' into the 20' front yard setback.

425-17.K (Screening), to eliminate the requirement for a visual screen along the adjoining residential zoned lot to the east.

425-17.M (Dumpster setback), to permit a dumpster to be set less than 50' from the residential lot zoned to the east.

425-40.B(1) (Access drive setback), permit access drive to be less than 200' from the right-of-way line from the intersection of Royal Road and Kimberly Road.

425-67.A (Outdoor play area requirements) to permit outdoor play area in the front yard. To permit a 4' tall fencing in certain areas where 6' is generally required. And provide an outdoor play area of the size that is consistent with the Commonwealths License Requirements for Daycare but is less than 16,000 sf that is required by the Zoning Ordinance.

Dennis Fenerty was sworn in. Mr. Fenerty is the property owner, under the name of Royal Buck LLC. Mr. Fenerty adopts the statements made in the submitted narrative as though they were his own.

Jenna Albers, Kiddie Academy Corporate, was sworn in. The business address is 429 Maple Avenue Extension, Greenville, NY. She is the development approvals manager and has been employed for one year. This facility is designed to accommodate up to 160 children. Children age range for enrollment is 4 months to age 5. 24 employees will staff this site. The hours of the operation are 6:30 am – 6:30 pm, Monday – Friday. Pick up and drop off times are conducted in a roll off manner. Peak times for drop-off are 7 am – 9 am and pick-up being 4 pm – 6 pm. There is a 4-hour window for drop-off being 6:30 am – 10 am and pick-up being 3 pm – 6:30 pm. The staggered drop-off and pick-up schedule greatly reduces the maximum peak traffic numbers. Designated drop-off parking spaces will be provided to accommodate this practice and will be arranged so that the clients do not have to cross traffic lanes on the site. There will be no tractor trailer traffic. Food deliveries will be made by box trucks and vans. This applicant is proposing approximately 12,000 sf of outdoor playground area separated in three age distinctions. A 6' fence will enclose the outdoor play areas. Based on State Requirements the outdoor play area should be 3100 sf for compliance. Section 425-67 Zoning Ordinance Outdoor Play Area must be provided at 100 sf per individual enrolled at the daycare. This makes a requirement of 16,000 sf of play area. This amount exceeds State and Licensing requirements. All 160 enrolled children will not be in the play area at one time. The size and configuration of this site make it extremely difficult to provide more than the proposed 12,000 sf play area in a safe manner. The proposed 12,000 sf play area is sufficient for operations at this site. This facility as proposed is consistent or exceeds industry norms in terms of safety, playground areas and operations and currently complies with all State Licensing requirements and will even during permitting process. Ms. Albers adopts the statements made in the narrative as though they were her own.

Dennis Funk inquired if 160 students enrolled is the standard size for Kiddie Academy. The enrollment number is based upon the size of the building. This building would be considered their normal size. Generally, one class at a time would be utilizing the outdoor play area at a time.

Brad Singer inquired about the procedure if during peak drop-off hours all parking spaces are filled, and more parents come to drop off. Ms. Albers stated that most of the children enrolled are siblings and the parking calculations are based on two children per vehicle. There has not been an issue at any of their locations where parents need to drive around and wait. Typical drop-off/pick-up time consists of approximately 10 minutes. There will not be a kindergarten class at this location. No bus transportation will be permitted.

Dennis Funk inquired about Ms. Albers job description and her credentials.

Ms. Albers stated that a 4' fence is being proposed out front at the main entrance into the facility which helps to contain the children as they create two points of egress for each of the classrooms for fire safety purposes. Each exit door will be alarmed and with a fence around the perimeter of the building so that a child cannot run

out into the street or parking lot. This area out front will not be utilized for play time or activities. The application as submitted states that Pennsylvania requires 5,500 sf of play area. This was a holdover amount and the 3,100 sf area is the correct required amount. One classroom at a time will be in the outdoor play area which would have a maximum of 10 toddlers to 20 preschool age children at a time.

Todd Smeigh, D.G. Gohn Associates, Inc of Mount Joy was sworn in. Mr. Smeigh has been employed since 1988 and is the owner and President of the company. He is the engineer for and prepared the site plan for this project. Mr. Smeigh was accepted as an expert in civil engineering. The site is a triangular shape or pork chop shape which was created by a plan recorded in October, 2003, creating a 1.79 acre parcel, lot #5 on Plan Book J217, page 133. That subdivision plan affected the right-of-way for Royal Road and filed after Centerville Road was relocated. This lot is next to the Wilshire Hills Residential Development. Wilshire Hills is situated to the east and the north of the subject property. Immediately below this development is Industrial Zoned land owned by Armstrong Cork Company, which is surrounded by a chain-link fence. To the Southwest is a Township Park across the street from the subject property. On the north side is other commercial zoned land on the opposite side of Royal Road. Due west is property owned by the Homeowners Association for Woods Edge. Immediately adjacent to Centerville Road South is an open wetland space. The closest neighbor to the subject property is a Wilshire Hills property on Royal Road.

Stormwater flows down from Royal Road down towards Centerville Road. There is an inlet and culvert which flows underneath South Centerville Road. Beside the culvert is a fire hydrant and another fire hydrant is located down at the southern point of this property. Water is out in the street; storm drainage comes across the lot and into an existing swale and piped underneath and goes onto Manor Township land. A sanitary sewer, a water line and storm drainage exists on the eastside of property. It is on the right-of-way of Centerville Road when South Centerville connected to the Wilshire Hills Development and Armstrong land. On the subdivision plan of 2003 there are encumbrances on the east side of the property. The shape of this three-sided lot, utilities to east side of property, make the lot difficult to comply with the zoning requirements. During a pre-application meeting it was determined that the front yard faces Royal Road and South Centerville Road. The understanding is that the east side is being considered a side yard. This is creating a lawfully pre-existing non-conforming lot as to a corner lot. There is no rear yard which is needed for a corner lot.

Dennis Funk inquired if the right-of-way for utilities goes into this lot, which it does somewhat. No improvements can be made to this utility easement.

Exhibit 2 is the proposed site plan and it was drawn trying to use the best utilization of the property in a manner that allows it to function well as a commercial daycare facility, with safety in mind. There are two points of full-service access; one across from existing Township Park entrance on South Centerville Road, and the other is off of Royal Road about 25' west of where Royal Road used to intersect with South Centerville Road. Emergency vehicles can get completely around the property. The building faces due south on the property, which offsets the building from the true front yard which is considered South Centerville Road. The building is oriented so that the back yard or rear of building is parallel to Royal Road. The building was kept down from Royal Road to allow for the outdoor play area. This throws the outdoor play area in the front yard as determined by Zoning of Royal Road. The parking is proposed on the south side or front of the building but is on the southern portion of the site and the southeastern portion of the site. All of the parking is in the front of the building for security purposes.

There is an area reserved for stormwater management that may change in size based upon the Land Development process but confidently there is enough land for stormwater even if they need to go underneath the play area.

The plan depicts landscaping in accordance with the Zoning requirements and will be finalized during the Land Development process. An enclosed dumpster is required for a commercial property and is on the east side of the property just west of the corner of the Armstrong Cork property. This location makes it readily available to trash haulers to access. It also allows staff to access the dumpster as they are exiting the property. There are very few locations where a dumpster can be put on this site. This is within 50' of a residential property in the Wilshire Hills development. There will be a screen built to hide the dumpster area and will be finalized in the Land Development process.

Based on the Zoning Ordinance for a commercial daycare facility 27 parking spaces are required. They are proposing 41 spaces all located in the front of the building. The designated drop-off parking spaces are directly in front of the building.

Variance request 425.17E1 pertains to the 20' front yard setback. The front yard encroach occurs at the very end of the proposed parking bay. This bay projects into the setback by a little over 5'. A small triangular area, which is not a parking space but a back-up area. This triangle is approximately 30 sf. This is considered a minor deviation from the dimensional requirements of the Zoning Ordinance. Rigid compliance would not be necessary regarding public policy concerns in this instance. This is a de minimis request.

Variance request 425.17K pertains to the requirement of a visual screen that must be provided along any adjoining lands within any residential zones. This request is along the northern portion of the eastern border of the subject project. There is 116.85' that adjoins existing residential parcel. Because this also borders the LASA sewer easement it is not possible to provide strict screening per the Zoning Ordinance.

A portion of the play area fencing will be facing this residential tract. This portion of the fencing will be a solid, privacy type fence to create screening for this residential adjoined property.

Section 425.17M requiring a dumpster to be set back at least 50' from adjoining residential zoned properties. This proposed location is the best for safety, accessibility, and useability for the employees at this site as well as garbage companies to unload. Per Exhibit 1, the existing conditions there is an existing row of vegetation along the rear of the residential property. This comprises of some very old growth of deciduous trees, conifers, and pine trees. This does provide some level of screening for the dumpster, but they are open to exploring other options. They will comply with the Ordinance requirements for enclosing the dumpster. Based upon the lot configuration and unique development challenges it is not readily feasible to locate the dumpster more than 50' from the residential property. The only other area it could go is in the middle of the parking lot or in the front yard. This location allows the minimum hardship relief necessary. The tract directly to the east of the dumpster would be the industrial zone property. No screening requirements are necessary along this side.

Variance request 425.40B1 states access drives be located at least 200' from the intersection of any street right-of-way lines. The proposed site plan shows a northeast entrance into Kiddie Academy 165' from the intersection of Kimberly Road and Royal Road. There is an additional access to site off of South Centerville Road. This additional entrance is required because it provides options for emergency vehicles and also franchisees the opportunity to instruct their clients a pattern set on how to leave. Perhaps enter off South Centerville and exit via Royal Road. This option is for the benefit and general welfare and the safety of this site and the Township. The intersection of Royal Road and South Centerville Road experiences higher volumes of traffic than the intersection of Royal and Kimberly Roads. From a safety perspective there is a sliding scale about locating the position of the access drive because the further you get away from Kimberly Road the closer you get to the major intersection.

Variance request 425.67A pertains to the outdoor play area. Zoning provides that outdoor play areas shall not be located within the front yard. This property is a corner lot with only three sides. Two of the three sides

front on streets. The front of the building faces the parking lot to the south along South Centerville Road. The playground is located to the rear of the building. Because of the lots unique configuration, the rear of the building is one of the front yards. The outside play area cannot be configured outside of the front yard. Applicant intends to provide 12,000 sf of total outside play area. The playgrounds are 10' from the street right-of-way. Per the Ordinance commercial childcare must provide 6' tall fencing. Applicant intends on providing 6' fencing along the playgrounds along Royal Road towards South Centerville Road and circling back towards the front left corner of proposed building. Applicant intends on providing a 4' tall fencing in the front of the building coming in from the west and east corner coming towards the main entrance. The 4' tall fencing would be internal to the property. The purpose of this fencing is to prevent children from running out of the play areas into the parking lot and travel lanes. This property possesses circumstances and conditions that make it uniquely challenging to develop. The applicant did not create these hardships, the hardships exist by the virtue of the property's condition. This relief will not alter the character of the essential zoning district substantially or permanently impair the appropriate use or development of adjacent property or be detrimental to the public welfare. The proposed development is consistent with the goals of the Township and County comprehensive plans. The relief request is de minimus and necessary to afford Applicant relief. Mr. Smeigh adopts the statements made in the narrative as though they were his own.

Dennis Funk inquired why 41 parking spaces were being proposed while 27 are required. Mr. Smeigh did comment that all of them are not necessary. Mr. Fenerty commented that in his experience the more spaces available the better it was for the clients. Typically, ten parents might be dropping off or picking up their children at a time. The parking spaces are also for the employees and if there was a parent event where more spaces would be needed. Dennis Funk inquired if you took out a few parking spaces, could you reconfigure the dumpster pad to avoid a variance. Mr. Smeigh said they might have to lose three spaces, but this would move the dumpster closer to the front of the building. Dennis Funk inquired if a smaller building was considered for this unique lot. There are no dimensional variances needed for the building and the client wants to maximize the outside play area and have the best use of the area reserved for vehicle parking. An optimal layout was considered keeping the building away from South Centerville Road and Royal Drive. Even if the building was half the size, they are still left with a lot that has two front yards and some variances would still be needed because of the lot layout.

Scott Ream asked the sizing of the dumpster pad, which was not known at the time. It will be gated and completely enclosed. The 4' tall fencing around the front of the building will have gates that are locked and alarmed. The gates will have a panic bar on the inside to exit if necessary.

Solicitor Peipher wanted confirmation on the variance request of the dumpster pad which should be 50' clear but is actually zero. The variance request on the screening of the dumpster enclosure would mean some type of screen planting immediately outside of the fence but the exact material is not known at this time. They tried to make the effort to not have the dumpster immediately to the west of the existing residential use, it was pulled down but still within 50' of the boundary line.

Dennis Funk inquired about an area that could be screened that is within the LASA easement. The applicant will be going through this easement to tap into the sewer line because the mechanical room is towards the northeast corner of the building where the kitchen will be also. There is water and sewer in this easement. Dennis Funk commented that screening could occur in the corner, but they don't think they can adhere to the exact screening ordinance because they can not access the entire width and length due to the right-of-way easement.

No further witnesses were called. Solicitor Peipher inquired about the equity interest Mr. Fenerty had in this property. Mr. Fenerty is the current landowner of this property.

The meeting was open to public comment.

Joseph Hipple, 127 Langley Square, questioned about lane additions in the future and if a speed limit will be set for this area.

Bill Crawl, 2729 Kimberly Road, questioned the impervious calculations on this property, commented that plantings will not be feasible as screening in this easement area and inquired about the existing concrete pad. Mr. Crawl also has a concern about the less than 200' drive access.

Joe Warfel, 2738 Sherwood Lane, inquired about the fencing and sight-line ability going onto South Centerville Road. He also expressed concern about the less than 200' drive access.

Dennis Funk inquired if the fencing on the dumpster enclosure is within the water and sewer right-of-way. Mr. Smeigh agreed that an adjustment will need to be made as fencing also cannot be in this area.

Chairman Singer addressed the public saying all comments made by the Applicant and the public are taken into consideration. The meeting was open to brief public comment. Each speaker was sworn in.

Molly Weiss, 2632 Royal Road, approves of the use as a daycare and thinks the traffic will not be as high as a public school. She thinks landscaping could be used to hide the dumpster.

Bill Crawl is against this proposal even though a daycare facility would be wonderful. His concern is the number of variances proposed for this project.

Joe Warfel is not against the daycare facility, but more studies need to be done for traffic control.

Vanessa Crawl, 2729 Kimberly Road, asked if there were any sidewalks planned for this project. Sidewalks would be a Subdivision and Land Development issue and worked on at a later.

Attorney Wertz gave a brief description of this project and variance requests. They believe they have strong legal arguments for the requested relief. Applicant is open to conditions to get requested relief.

Testimony was closed.

Solicitor Peipher explained the procedure for the balance of the meeting. Chairman Singer called for a five-minute recess.

Chairman Singer reconvened the meeting. Chairman Singer explained the procedure. A question the Board had was if the Applicant is requesting the minimal exception to the rules.

Dennis Funk asked for a redesign. Could the building be shifted to the west or decrease the building size, which could get the driveway over allowing a screened in dumpster. It would lose a few parking spaces for the dumpster pad and would increase road access from 165' to just less than 200'. This would give a minimal request and heed residents concern about safety issues.

Todd Smeigh commented they would need more relief for the outside play area. This is understood by the Board.

Solicitor Peipher commented that procedure would allow them to Amend the Application and the Testimony to fit within these Variances if they did not request any new variances.

Attorney Wertz commented that for this size building the Variance requests made is the minimum relief necessary. Any building could be reduced in size to make it work for Zoning purposes but then you would be losing the feasibility economically and hardship increased.

Solicitor Peipher said what was presented is the offer based upon the concerns the Board has.

A five-minute recess was requested.

Meeting reconvened.

By eliminating some parking spaces, Applicant can get the dumpster into compliance which would eliminate the 50' setback variance request. A modification will be made to this plan with the screening requirement along the adjoining property. The Applicant is pending eliminating variance requests for 425.17K or 425.17M. There is no clearly stated screening width in the Zoning Ordinance.

Attorney Wertz inquired with Zoning Officer, Nate Taggart the distance between Kimberly Road and the proposed intersection. The current concept plan shows the starting point as the middle of the intersection of Royal and the proposed northern access drive. The ending position is at the western terminus of the intersection of Royal Road and Kimberly Road. The Ordinance is vague on how to measure. If the measurement was done center line to center line it would be a measurement of approximately 195'. The Ordinance reads 200' from the intersection of any street right-of-way lines. The access is the right-of-way of Kimberly Road, which is the closest right-of-way line. Nate stated that the measurement should be from the edge of the access drive to where it meets the right-of-way line on Royal Road.

Changing the size of the building is not feasible to maintain the proposition of the site. They might be able to slide the building to the left 5-6'. They will not be able to get a 200' clear for Ordinance 425.40. Dennis Funk commented we are not looking for full 200' but closer than what is currently proposed. It is possible as they work through the Land Development phase this might become a required right-in, right-out access drive, depending on the traffic study. As a zoning contingency they would more amendable to have a right-in, right-out than have the variance request denied. This would address some concerns of public comment about speeding and driving over traffic lines. Todd Smeigh commented in his opinion, right-in, right-out would not solve this problem. This should be a full access drive or emergency bollard access. A traffic analysis needs to be done.

Attorney Wertz asked for the Board to render a decision to this plan subject to the modifications as withdrawing of the two variance requests and subject to the remaining variances that were on record. Clarification made that Variance to section 425.17K screening and section 425.17M for the dumpster setback have been eliminated but the balance is to be considered.

Solicitor Peipher expressed a concern that the Testimony clarification, the Township is reading the measurement differently than what they have presented. A request was made to render a decision based upon the scale of the site plan from the radius of the access drive to right-of-way to Kimberly Road.

Scott Ream made a motion to adjourn the meeting, Dennis Funk seconded, and the vote was unanimous, meeting was adjourned at 9:10 pm. A decision will be rendered in the required 45 days based upon the Testimony heard tonight.

The next meeting will be held September 6, 2023, at 7:00 pm at the Manor Township Municipal Office at 950 West Fairway Avenue, Lancaster.

Respectfully Submitted,

Jeffrey Klugh
Secretary

Recording Secretary
Peg Hess