

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :
 : No. 2015-07
APPLICATION OF WONDERLAND :
AMUSEMENT MANAGEMENT, LLC :

DECISION

I. FINDINGS OF FACT

1. Applicant is Wonderland Amusement Management, LLC, 2249 Lincoln Highway East, Lancaster, Pennsylvania 17602 ("Applicant").
2. The property which is the subject of the instant application is 2249 Lincoln Highway East, East Lampeter Township, Lancaster County, Pennsylvania (the "Property").
3. Applicant is the owner of the Property.
4. The Property is located within the Commercial C-2 District, Conservation District and Floodplain District as shown on the Official Zoning Map of East Lampeter Township.
5. Notice of the hearing on the within application was duly advertised and posted in accordance with the provisions of the Pennsylvania Municipalities Planning Code ("MPC") and The Revised Zoning Ordinance of East Lampeter Township - 1990 (the "Zoning Ordinance").
6. A public hearing was held before the Zoning Hearing Board of East Lampeter Township ("Board") on this application on February 26, 2015.
7. Testimony at the hearing was stenographically recorded.
8. Applicant was represented at the hearing by Mark Stanley, Esquire.

9. Rick Stammel, Applicant's general manager, and David Miller, of Rettew Associates, Inc., appeared at the hearing and testified on behalf of Applicant.

10. The following person completed an entry of appearance and was recognized as a party to the hearing:

Rodney Gleiberman / Continental Ltd.
2285 Lincoln Highway East
Lancaster, PA 17602

11. The Property was the subject of previous zoning hearings and the Board takes administrative notice of its previous Decisions.

12. The Board made the following findings in the previous hearings regarding the Property: The Property is and has been used for the Dutch Wonderland Family Amusement Park (the "Park").

The Park was first opened in 1963.

In 1963, the Park was located upon a tract of land containing 11 acres.

Since 1963, the Park added and replaced facilities.

An adjacent farm was purchased in 1965.

Over a 38-year period, the Park expanded in all directions.

The Park now occupies 57 acres.

East Lampeter Township adopted its initial Zoning Ordinance on November 10, 1970.

13. Applicant is now proposing to redevelop its existing parking area on the Property in order to provide more convenient and safer circulation pattern for the Property. In connection with this project, Applicant is also proposing to remove two (2) existing signs along Lincoln Highway, which will be replaced by a sign at a separate location on the Property.

14. Applicant has now requested:

(i) A variance from Section 1702.1 of the Zoning Ordinance to permit the parking spaces on the Property to have a total area of less than one hundred eighty (180) square feet;

(ii) A variance from Section 1702.5 of the Zoning Ordinance to permit a portion of the parking area on the Property to be bounded by a greenbelt less than ten (10') feet in width;

(iii) A variance from Section 1605, Table 1, of the Zoning Ordinance to permit the construction and operation of a sign which exceeds the permitted area, height and number of freestanding signs on the Property;

(iv) A variance from Section 1605, Table 1, of the Zoning Ordinance to permit the construction and operation of nineteen (19) freestanding banner signs within the proposed parking area, which exceed the permitted number and total size of freestanding signs on the Property; and

(v) Variances from Sections 1602.14 and 1605, Table 1, of the Zoning Ordinance so as to permit the construction and operation of an incidental sign that exceeds the permitted area and height for incidental signs on the Property.

15. Applicant is proposing to redevelop its existing parking area in order to provide a safer and more efficient circulation pattern for guests accessing the Property.

16. As depicted on the plans submitted by Applicant (collectively the "Plan"), the reconfiguration will involve a single entry point and a circulation pattern that dictates the flow of traffic through a line of ticket booths and into designated parking areas.

17. The reconfigured parking area will retain some characteristics of the existing configuration, including reduced parking space sizes and a limited greenbelt, but will improve the efficiency of circulation, as illustrated on the Plan.

18. Moreover, the reconfigured parking area will improve pedestrian safety by providing a funneled access pattern from the parking area into the park and maximizing the use of crosswalks as depicted on the Plan.

19. As part of the proposed redevelopment, Applicant is also modifying the existing signage on the Property.

20. The Property currently contains four (4) freestanding signs located along Lincoln Highway (collectively, the "Current Signs").

21. The Current Signs are permitted as pre-existing nonconforming structures, in that they exceed the number of permitted signs, permitted sign area, location in proximity to the right-of-way of Lincoln Highway, and some exceed the permitted height.

22. The Current Signs have a total sign area of approximately 1,015 square feet.

23. Because of the construction of dedicated entrance lanes to be located adjacent to Lincoln Highway and the consolidation of the eastern access point, Applicant is proposing to remove two (2) of the current signs.

24. As depicted on the Plan, the signs to be removed are located immediately to the east and west of the existing eastern access point on the Property (they are identified as "Sign" and "Campground Sign" on the Plan and are hereinafter referred to as the "Campground Signs").

25. The Campground Signs have a total area of approximately three hundred sixty-three (363) square feet.

26. Applicant intends to remove the Campground Signs and replace them with a welcome sign to be located over the ticket booths, essentially as depicted on the conceptual rendering submitted by Applicant (the "Welcome Sign").

27. The Welcome Sign will have a total area of approximately four hundred twenty (420) square feet.

28. In addition to the Welcome Sign, Applicant is proposing to install a directional overhang sign which will indicate the lane use at the reconfigured access drive prior to the ticket booths (the "Directional Overhang").

29. The Directional Overhand will be constructed at the location shown on the Plan.

30. The Directional Overhang will comply with the applicable dimensional standards of the Zoning Ordinance.

31. With regard to Applicant's request for a variance to permit reduced parking space area, Section 1702.1 of the Zoning Ordinance requires that all off-street parking spaces have a minimum area of one hundred eighty (180) square feet, and a minimum width of seven and one-half (7½') feet. As depicted on the Plan, Applicant is proposing to utilize spaces that are nine (9') feet in width and eighteen (18') feet in length, for a total of one hundred sixty-two (162) square feet in area. The proposed parking space area is consistent with the spaces currently located on the Property, for which the Board previously granted a variance from Section 1702.1 of the Zoning Ordinance by Decision dated March 28, 2002 in Case No. 2002-11 (the "2002 Decision"). While the proposed spaces are ten (10%) percent smaller in total area than the spaces required by Section 1702.1, the nine (9') width exceeds the required width and the depth of the spaces is adequate to accommodate passenger vehicles, as previously recognized by the 2002 Decision. Moreover, given the existing improvements on the Property, and the portion located within the floodplain, compliance with Section 1702 of the Zoning Ordinance would significantly limit the number of parking spaces that could be located on the Property.

32. With regard to Applicant's request for a variance to permit reduced greenbelt width, under Section 1702.5 of the Zoning Ordinance a greenbelt with a minimum width of (10') feet must be provided between all parking areas, driveways and access ways, and the property's lot lines. As depicted on the Plan, Applicant is proposing to utilize a limited greenbelt on the eastern side of the parking area. The proposed limited greenbelt is consistent with the current development of the Property permitted pursuant to the 2002 Decision, which granted a variance from Section 1702.5 of the Zoning Ordinance. Moreover, as depicted on the Plan, the portion of the required greenbelt that will be less than ten (10') feet in width is located in a transition into a shared access drive, and is very small in area.

33. With regard to Applicant's request for a variance for the Welcome Sign, Section 1605, Table 1, of the Zoning Ordinance identifies the maximum permitted dimensions for signage in the C-2 District. Under Section 1605, the Property is permitted a maximum of 1 freestanding sign per frontage, which may be no more than twenty (20') feet in height and eighty (80) square feet in area with a total maximum area of two hundred eighty (280) square feet of sign area for the Property. As proposed, the Welcome Sign would exceed the number of permitted freestanding signs on the Property, and would exceed the dimensional standards for freestanding signs in that it would be approximately three hundred eighty-four (384) square feet in area and approximately thirty (30') feet in height. The bottom of the Welcome Sign will be no less than seventeen and one-half (17½') feet in height, in accordance with the standard for overhead signs contained in Section 1604.14 of the Zoning Ordinance. Because the Welcome Sign is considered both a "freestanding sign" and a "overhead sign" under the Zoning Ordinance, the applicable height standards (20' maximum for freestanding and 17½' minimum for overhead) are incompatible with the nature of the proposed signage atop the ticket booths as a gateway to the park itself, as well as with the appropriate lettering

size for such a location. Freestanding signs are also required to be set back at least ten (10') feet from all street rights-of-way. As discussed above, the Property currently contains preexisting nonconforming signage. Applicant is proposing to remove the Campground Signs, resulting in a reduction in the amount of signage located along Lincoln Highway by approximately three hundred sixty-three (363) square feet. In lieu of the Campground Signs, the Welcome Sign will be set back approximately three hundred ninety (390') feet from the right-of-way of Lincoln Highway. By removing the two (2) signs from the sight line along Lincoln Highway, Wonderland proposes to significantly alleviate the visual effect currently along the Property's frontage, consistent with the purpose of the Township's Lincoln Highway Streetscape Plan. While the Welcome Sign, because of its size, may be visible from certain angles from Lincoln Highway, it is intended to function as a greeting and aesthetic feature for park guests who are approaching the ticket booths. As such the design and location of the sign have not been configured in such a way to maximize its impact on travelers along Lincoln Highway. As depicted on the Plan, the Welcome Sign itself will be shielded in part from visibility by the Directional Overhang. Moreover, the significant distance the Welcome Sign is proposed to be setback will also limit its impact on passersby in general. Nevertheless, recognizing that the Welcome Sign exceeds the dimensional and numeric criteria contained within Section 1605 of the Zoning Ordinance, Applicant is seeking a variance to permit the proposed Welcome Sign to replace the existing Campground Signs.

34. With regard to Applicant's request for a variance for the parking lot banner signs, Applicant is also proposing to incorporate informational banners onto the light standards within the redeveloped parking area at the nineteen (19) locations shown on the Plan (the "Parking Banners"). However, because the Parking Banners are proposed to contain small logos for distinguishing segments of the parking area, they are not considered incidental signs. The Parking Banners are

proposed solely for the purpose of providing information for use within the Property. The Parking Banners are intended to provide easy section and aisle identification for guests parking in the parking area and will be approximately sixteen (16) square feet in size [two (2) feet by four (4) feet on each side of the pole upon which they are located], and no more than twenty (20') feet from the ground. As discussed above, the Property currently exceeds the maximum permitted number and total area of freestanding signs in the C-2 District. The utilization of the Parking Banners is consistent with the overall intent of the proposed redevelopment, improving the overall safety and efficiency of the existing pedestrian and vehicular circulation within the parking area. By providing an easy to use identification system, Applicant intends to minimize the pedestrian traffic outside the crosswalks and designated pedestrian areas. Moreover, the proposed circulation patterns, depicted on the Plan, is premised on efficient access to the three distinct portions of the parking area. The Parking Banners will assist in that goal by providing guests entering and leaving the Property with easy identification of the individual segments of the parking area. The Parking Banners have been designed to be the minimum size necessary to provide adequate identification throughout the parking area, and Applicant has sought to utilize the minimum number of signs necessary to properly identify the segments of the parking area. Wonderland is not proposing to place such banners on all of the lighting standards within the parking area, nor is it proposing to place banners along the right-of-way of Lincoln Highway. The parking Banners are specifically targeted to increase the efficiency of pedestrian and vehicular traffic within the parking area, and are limited in size and location to satisfy that aim.

35. With regard to Applicant's request for variances for the Directional Overhang, Applicant is requesting variances to permit the Directional Overhang which will exceed the permitted area and height for incidentals signs under the Zoning Ordinance. Incidental signs in the C-2 District may be

no more than two (2) square feet in area and six (6') feet in height. The Directional Overhang will have a total area of sixty (60) square feet, and the top of the Directional Overhang will be approximately twenty-two (22') feet in height. The bottom of the Directional Overhang will be no less than seventeen and one-half (17½') feet in height, in accordance with the standard for overhead signs contained in Section 1604.14 of the Zoning Ordinance. Because the Directional Overhang is considered both an "incidental sign" and a "overhead sign" under the Zoning Ordinance, the applicable height standards (6' maximum for incidental and 17½' minimum for overhead) are in conflict. Applicant has sought to provide both an efficient and safe means of identifying the various lanes leading to the ticket booths. As such, the proposed signage, though not necessarily contemplated by the Zoning Ordinance, is appropriate in this instance. The dimensions and height of the Directional Overhang are necessary in order to allow for vehicle clearance while providing the information at a safely readable size.

36. The requested variances will not alter the essential character of the neighborhood or C-2 District. Rather, the reconfigured parking area will drastically improve the safety and efficiency of access and use of the Property. Moreover, the removal of the Campground Signs, which is consistent with the Township's Lincoln Highway Streetscape Plan, will improve the aesthetics of the neighborhood and is consistent with the commercial character of the surrounding area.

37. The requested variances will not substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.

38. The requested variances are the minimum relief that is necessary for Wonderland.

II. CONCLUSIONS OF LAW

1. An applicant for a variance bears the burden of proving that unnecessary hardship will result if the variance is not granted and that the grant of the proposed variance will not be contrary

to the public interest. Valley View Civic Association v. Zoning Board of Adjustment, 501 Pa. 550, 462 A.2d 637 (1983); Zaruta v. Zoning Hearing Board of the City of Wilkes-Barre, 117 Pa. Commonwealth Ct. 526, 543 A.2d 1282 (1988); Pennsylvania Municipalities Planning Code ("MPC") §910.2.

2. A variance, if granted, "must be the minimum that will afford relief and will represent the least modification of the ordinance." Rogers v. Zoning Hearing Board of East Pikeland Township, 103 Pa. Commonwealth Ct. 478, 520 A.2d 922, 924 (1987); MPC §910.2(a)(5).

3. Applicant has presented evidence sufficient to establish that unnecessary hardship will result if the variances are not granted, that the grant of the proposed variances will not be contrary to the public interest, and that the variances requested are the minimum that will afford relief and will represent the least modification of the Zoning Ordinance.

4. Conditions must be attached to a grant of the variances in this case to preserve and protect the surrounding neighborhood.

III. DECISION

Based upon the foregoing findings of fact and conclusions of law, the Zoning Hearing Board of the Township of East Lampeter hereby grants the application of Wonderland Amusement Management, LLC, for the variances enumerated above. The variances shall be subject to the following conditions and safeguards which the Board deems necessary to implement the purposes of the Zoning Ordinance and the MPC:

1. Applicant shall obtain all approvals and permits required by applicable federal, state and Township laws and regulations.

2. Applicant shall at all times comply with and adhere to the information and representations submitted with and contained in its application and the evidence presented to the Board at the hearing held on February 26, 2015.

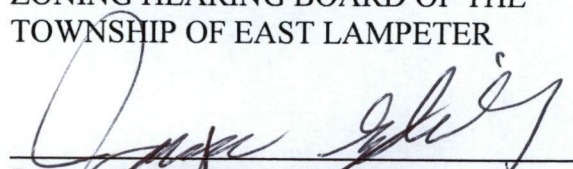
3. In the event that parking or traffic issues arise with regard to Applicant's patrons and the adjacent Continental Ltd property, Applicant and Rodney Gleiberman / Continental Ltd. shall cooperatively work together to utilize additional signage directing patrons to the appropriate parking area. Such signage shall be subject to the requirements of the Zoning Ordinance.

4. Any violation of the conditions contained in this Decision shall be considered a violation of the Zoning Ordinance and shall be subject to the penalties and remedies contained in the Pennsylvania Municipalities Planning Code.

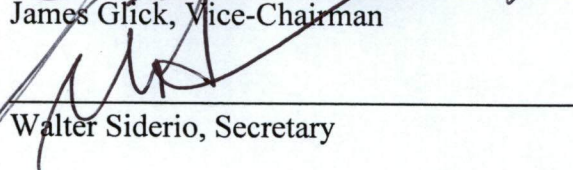
5. The approval granted by this Decision shall expire if Applicant does not obtain a zoning permit within three (3) years from the date of this Decision and does not complete construction of the improvements so authorized and commence the use so authorized within three (3) years from the date of this Decision.

6. The foregoing Decision shall be binding upon the Applicant and its successors and assigns.

ZONING HEARING BOARD OF THE
TOWNSHIP OF EAST LAMPETER



James Glick, Vice-Chairman

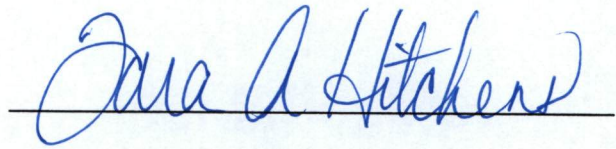


Walter Siderio, Secretary

J. Scott Enterline, Alternate

Dated and filed March 12, 2015, after hearing held on February 26, 2015.

The undersigned certifies that a copy of this Decision was served upon all parties on or prior to March 13, 2015.

A handwritten signature in blue ink, reading "Dana A Hitchens", is written over a horizontal line.