

**ZONING HEARING BOARD MEETING
October 20, 2008 MINUTES**

Members Present:

P. Andrew Diamond, Chairperson
Allan Tedesco, Vice Chairman
Charles Hawkins
Glenn Geisel
Mark Veon
Phil Lope, Esq., ZHB Solicitor

Township Staff Present:

Ron Henshaw, AICP, Director, Community
Development
Andrew Hartwell, Community Planner

Court Stenographer:

Karen Rowland

Mr. Diamond called the meeting to order at 7:29 p.m.

All members were present with the exception of Allan Tedesco, who arrived at 7:32.

Old Business:

AP # 30960 - An appeal of Woodforest National Bank. The type of appeal is an appeal is from an order of the Zoning Officer, although the application indicates that the applicant is seeking a variance from Chapter 27, Zoning, Part 6 (Signs), Section 604.2 (Maximum Total Sign Area per Lot or Site) located at 20245 Route 19 (Wal-Mart), Cranberry Township, PA 16066 (Map & parcel no. 130.4F110.10J).

Scott Leitenberger, Branch Manager, appeared on behalf of Woodforest Bank.

Ron Henshaw and Andrew Hartwell represented the Township.

Mr. Diamond read the application into the record. Mr. Diamond then asked the Zoning Hearing Board Solicitor, Phil Lope, for clarification on what the applicant was seeking. Mr. Lope informed the Board that this case involved an appeal of decision of the Zoning Officer. The Board agreed and Mr. Diamond advised the applicant that he has had ex parte communication with the Township about the matter. Mr. Leitenberger acknowledged that this communication had taken place.

At this time, with the Board's permission, Mr. Henshaw submitted to the record and presented a history of the events that led up to the appeal. In addition, Mr. Henshaw presented a letter from the Township Solicitor, Neva Stanger, Esq., that identified that general counsel at Wal-Mart had been advised that the store was allowed 294.75 square feet of signage. Mr. Henshaw's documentation also indicated that the Wal-Mart had already obtained signage in the amount of 294.75 square feet. Mr. Diamond questioned what existing signage was on the Wal-Mart store, Mr. Hartwell clarified.

Mr. Diamond asked Mr. Henshaw if the bank had been notified by the Township that the sign needed removed. Mr. Henshaw stated that the Township notified the building owner, Wal-Mart that the sign needed removed. Mr. Diamond stated that the bank should have been notified and questioned why a letter had not been sent to the bank. Mr. Henshaw stated that it is Township policy to send correspondence to the owner of the building, not the tenant. Mr. Diamond then questioned if the thirty day time period to file an appeal had expired. Mr. Henshaw stated that they had made a request for an appeal within the thirty day period.

Mr. Diamond asked when the sign had been installed. Mr. Leitenberger stated that the sign had been installed around September of 2007 and had cost the bank around \$5,000.00 to install. If they would be required to remove the sign it would cost the bank over \$4,000.00 and would bring the total cost to over \$9,000.00. Mr. Lope stated that the bank has a vested right to have the sign because of the undue financial hardship incurred by removing it from the building. Mr. Tedesco asked the Township if they object to leaving the sign on the store. Mr. Henshaw stated that the Township does not oppose the ZHB granting a variance or approval of an appeal. Mr. Diamond stated that the situation needs disposed of. Mr. Lope advised the Board that the applicant needed to amend his application to state that this was an appeal of the Zoning Officers decision and

not a variance request. Mr. Diamond agreed and asked the applicant if he wished to amend the application. Mr. Leitenberger stated that he did want to amend the application.

Mr. Geisel stated that he is concerned about granting a reversal of the Zoning Officer's decision if the Zoning Officer did not do anything wrong and followed Township procedure. Mr. Diamond stated that it is not about assigning blame to any one party, but to allow the bank to have their sign. Mr. Tedesco asked Mr. Diamond for his professional opinion and asked him what a Common Pleas Court Judge would do in this situation. Mr. Diamond referred to Mr. Lope on the matter, but stated that in his experience the bank would be allowed to keep their sign. Mr. Lope agreed.

A motion was made by Mr. Geisel to grant a reversal of the Zoning Officer's decision and to allow the Woodforest Bank sign to remain on the Wal-Mart building as long as the bank remains the occupant of the tenant space within the store and that if the bank were to vacate the current tenant space that the sign would need removed. Mr. Tedesco seconded the motion. Mr. Geisel moved to amend the motion to state that the bank has a vested right to have the sign on the building and that the bank had proceeded in good faith to apply and install the sign. Motion to amend was seconded by Mr. Hawkins and passes unanimously. Motion passes unanimously.

New Business: None

Approval of Minutes

A motion was made by Mr. Hawkins to approve the minutes of September 15, 2008, seconded by Mr. Tedesco. Motion passed unanimously.

Adjournment

A motion was made to adjourn the meeting by Mr. Hawkins, seconded by Mr. Tedesco. Motion passed unanimously. Meeting adjourned at 8:38 p.m.

Respectfully Submitted,

Andrew H. Hartwell
Community Planner