



MOUNT JOY TOWNSHIP

• Lancaster County, Pennsylvania •

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Minutes of a Meeting of The Mount Joy Township Zoning Hearing Board Wednesday, October 2, 2024

1. Chairman Gregory R. Hitz, Sr. called the meeting to order at 6:00 P.M. in the Mount Joy Township Municipal Building located at 8853 Elizabethtown Road, Elizabethtown, PA 17022.
2. Meeting Attendance:
 - Members Present: Gregory R. Hitz, Sr., James E. Hershey, and Robert F. Newton, Jr.
 - Members Absent: None
 - Alternate Member Present: Roni K. Clark
 - Township Representatives: Justin S. Evans, Zoning Officer; Kim Kaufman, Township Manager
 - Lancaster County Court Reporter: Veronica Johnston Gouck
 - Zoning Hearing Board Solicitor: John P. Henry, Esq. of Blakinger Thomas
3. A motion was made by Robert F. Newton, Jr. and seconded by Roni K. Clark to approve the minutes of the September 4, 2024 meeting. All members present voted in favor of the motion.
4. Solicitor John P. Henry provided a procedural briefing for the meeting.
5. Mr. Evans, Township Zoning Officer, stated that a Public Notice was published in the August 15, 2024 and August 22, 2024 editions of the LNP. The subject property was posted on August 23, 2024.
6. Old Business:
 - a. Request For a One-Year Extension of Time of Prior Approvals – Case #230015: Elizabethtown Mt. Joy LLC (2269 South Market Street). Hearings held on October 4, 2023 & November 1, 2023; approvals expire on November 1, 2024.

Attorney Nicholas Daller presented the time extension request on behalf of the applicant. He provided a written summary of progress on the project and a general timeline moving forward. Survey and preliminary site investigations are complete. Ongoing tasks include preparation of the land development, stormwater management, and erosion and sediment control plans. The applicable plans will be submitted to the Township and County Conservation District in the coming months.

A motion was made by Robert F. Newton, Jr. and seconded by James E. Hershey to grant a one-year extension of time to the approvals. All members present voted in favor of the motion.
7. Zoning Case #240011 [Continued from the September 4, 2024 meeting.]
 - a. Applicant/Landowner: Sheetz, Inc. (equitable owner)
 - b. Property Location: 50 Veterans Drive, Elizabethtown, PA 17022; Tax Parcel ID #460-79623-0-0000
 - c. Zoning District: MU – Mixed Use District
 - d. Special Exception Request:
 - 1) Chapter 135, Article XV, §135-143.D – establishment of a vehicular fueling station

e. Variance Request:

- 2) Chapter 135, Article XXVIII, §135-383.B(7) – to extend approvals for an additional period of one year in which to obtain a zoning permit and to complete construction

The applicant was represented by Attorney Adam DeBernardis of McNees Wallace & Nurick LLC with consultants Chris Venarchick of RGS Associates and Chris Schwab of Transportation Resource Group, Inc.

The following members of the public requested party status for the hearing:

- John Morris, 225 Old Hershey Road; lives approximately 150' from the site. Attorney DeBernardis had no objection.
- Kristy Moore, 8 King Court; lives in adjacent residential neighborhood. Attorney DeBernardis had no objection.
- Kulwinder Grewal (represented by Attorney Daniel Stephenson, Vanormer & Stephenson, PC), 467 Hershey Road; located approximately ½ miles from the site. Attorney DeBernardis objected to the request. Attorney Stephenson expressed a unique impact to his client, whose property received approvals for use as a vehicular fueling station. The objection to the request was based on distance and economic impact not being a legitimate basis.

A motion was made by Robert F. Newton, Jr. and seconded by James E. Hershey to accept John Morris, Kristy Moore, and Kulwinder Grewal as parties to the hearing. All members present voted in favor of the motion.

The applicant's testimony began with Attorney DeBernardis providing a general overview of the proposal to redevelop the Pizza Town/House of Wine site with a Sheetz convenience store and vehicular fueling pumps. He called Mr. Venarchick to provide an overview of his credentials and professional scope of work as a civil engineer and land planning consultant. A motion was made by Robert F. Newton, Jr. and seconded by James E. Hershey to accept Mr. Venarchick as an expert witness in civil engineering and land planning. All members present voted in favor of the motion.

The following exhibits were referenced during Mr. Venarchick's testimony:

- A-1: Application
- A-2: Aerial Image of the Site
- A-3: Existing Conditions Exhibit
- A-4: Proposed Site Plan
- A-5: Color Rendering
- A-6: Lighting Plan

Mr. Venarchick referred to Exhibit A-3 while describing the site's existing conditions, access points, and surrounding properties. Exhibits A-4 & A-5 showed the proposed redevelopment with the Sheetz store and fuel pumps after demolishing the existing restaurant structure. It will utilize the existing entrances on Veterans Drive and Old Hershey Road. There will be six fueling positions; each of which can accommodate two vehicles. Truck turning models were used to route fuel and other delivery trucks through the site in from Veterans Drive and out to Old Hershey Road. Sheetz tries to schedule their fuel deliveries during off-peak times to avoid conflicts with customer traffic.

The proposed dumpster location is similar to where the dumpster is now located for the pizza shop. 38 spaces are required by the Zoning Ordinance; 43 spaces are provided. The dumpster will be enclosed within a 360-degree structure that meets ordinance requirements. There will be no outdoor storage or servicing of vehicles. No development within a wetland is proposed. Mr. Venarchick noted the various third-party agency approvals and the amount of time it would take to obtain them.

Referring to the lighting plan (Exhibit A-6), he stated that the proposed lights will comply with the requirements that prohibit spillover beyond 0.1 footcandles onto a residential property or 1.0 footcandles onto a nonresidential property. The average illumination under the canopy does not exceed 20 footcandles.

Mr. Venarchick confirmed that the layouts in Exhibits A-4 & A-5 comply with the area and bulk regulations in Section 135-145. He went on to detail compliance with the standards in Section 135-268 for vehicular fueling stations. He addressed the criteria for special exceptions in Section 135-383.B.

Mr. Newton requested confirmation that all activities other than vehicular fueling will take place indoors per Section 135-268.D. Confirmed. Additionally, they confirmed that all parts will be stored inside per Section 135-268.F. Permits for underground storage tanks will be obtained per Section 135-268.K. No junked or abandoned vehicles will be stored on the property. Mr. Venarchick acknowledged that subsections .H, .I, & .J are not applicable to the application.

Mr. Hitz asked about moving the building between the original application and the revised site plan. It was shifted a few feet but meets all setbacks. The applicant could not recall receiving the Zoning Officer's letter dated August 12, 2024. They were provided with a copy of the letter during the hearing and reviewed it. Attorney DeBernardis will check with his client whether the proposed conditions are acceptable.

Mr. Hershey asked if there will be electric charging stations on site. No.

Attorney Stephenson cross-examined Mr. Venarchick. He asked if propane is a fuel, citing Section 135-268.F and referencing the plan's proposal to locate propane tanks in a locker adjacent to the building. Yes. If the propane tanks are not stored in a completely enclosed building, does the application comply with the ordinance? Mr. Venarchick believed so since the propane tanks are not intended to fuel a vehicle.

What about the claims that the Sheetz will not adversely affect the neighborhood? Correct, in as much that it will not have greater effects in this location compared to similar uses. Will Sheetz close in the evenings like the existing restaurant? No, it will be open 24/7. Attorney Stephenson questioned about the hazards of alcohol sales in this location where fuel is sold. Mr. Venarchick noted that Sheetz successfully operates hundreds of stores with alcohol sales.

Section 135-383.B(4) regarding neighborhood impacts was discussed, specifically with respect to alcohol sales and trucks accessing the site at night. Mr. Venarchick noted in his experience that truck deliveries are off-peak and not necessarily in the middle of the night. Impacts of late night truck deliveries and alcohol sales are speculative.

John Morris cross-examined Mr. Venarchick. Will the project disturb the water retention area in the front of the site? No. Was the water retention area on the adjoining property studied? They are aware of it via a site assessment. How much fuel and oil runs off a fueling station's parking lot? Unsure. Mr. Morris expressed concerns with fuel runoff affecting surface and ground water, in addition to general stormwater management issues. A discussion took place regarding what level of design is appropriate for zoning approval versus land development. Mr. Venarchick noted the existing stormwater facility at the rear of the site will be relocated underground though the final design is not complete.

Mr. Morris asked about truck routing through the site and noise from refueling. Sheetz employs their own truck drivers and has control over their operations to avoid late night deliveries. Mr. Morris has concerns with noise traveling through the surrounding neighborhoods.

Kristy Moore cross-examined Mr. Venarchick. Impacts of off peak delivery times are a concern with the surrounding neighborhood. The lighting plan is helpful to visualize those impacts but what about sound, including music played at the fuel pumps as it is at most Sheetz? That information is not available at this stage in the land planning process.

Why are the fuel tanks near the rear of the site so close to the neighborhood? This is the best location for circulation in and through the site for customers and deliveries. Where is the vent stack for the underground fuel tanks? It will be located off the edge of pavement near the fuel tanks. Ms. Moore then requested to hear the three proposed conditions in the Zoning Officer's letter to the applicant. They were read aloud to the public, generally addressing compliance with other provisions of the Zoning Ordinance, gaining approval of a land development plan through the Township Planning Commission, and compliance with the testimony given at the hearing(s).

Mr. Morris requested to ask additional questions. How much volume does the eliminated stormwater facility hold? Mr. Venarchick could not answer at this time. With that basin being removed, what is the routing of stormwater

through the site? It is not fully designed, however, the general plan is to maintain the drainage areas on the site. The above ground basin near the back will be replaced by an underground facility.

Attorney DeBernardis redirected to Mr. Venarchick. Will this Sheetz have a similar impact on the surrounding neighborhood as similar uses do elsewhere? Yes. Mr. Hitz asked if Sheetz has a spill response plan. Mr. Venarchick was not aware of the specific details but does know that Sheetz has one through his prior experience with the company. Are the employees trained on the spill response plan? Yes.

Attorney DeBernardis called Mr. Schwab, who presented his credentials and professional scope of work in transportation engineering. He was offered as an expert in the field with 26 years of experience. A motion was made by James E. Hershey and seconded by Robert F. Newton, Jr. to accept Mr. Schwab as an expert in transportation engineering. All members present voted in favor of the motion.

The September 2024 edition of the Transportation Impact Study was entered as Exhibit A-7. Mr. Schwab provided an overview of the study process and trip estimation through the ITE Trip Generation Manual. The study includes an analysis of the site's access points onto Veterans Drive and Old Hershey Road, as well as three intersections along Hershey Road: Veterans Drive, the Route 283 interchange, and Mount Gretna Road/N Holly Street. These intersections are selected in conjunction with the Township Traffic Engineer. They currently operate at acceptable levels of service during the weekday and Saturday peak hours.

Projected volumes in 2025 which include background growth factors provided by PennDOT show that the intersections will continue to operate with acceptable levels of service without the proposed Sheetz. This holds true for the 2030 horizon year without the development. Sheetz is expected to generate the following peak hour trips:

- AM peak hour (highest between 6:00-9:00 a.m.): 379 total trips; 288 pass-by and 91 new
- PM peak hour (highest between 3:00-6:00 p.m.): 334 total trips; 250 pass-by and 84 new
- Saturday peak hour (highest between 11:00 a.m.-2:00 p.m.): 393 total trips; 255 pass-by and 138 new

Levels of service for the studied intersections in the opening year (2025) with the development's traffic are still acceptable. A grade of "D" or better is considered acceptable.

The study proposes two improvements at the Hershey Road/Veterans Drive intersection to mitigate the project. A left turn lane with a signalized arrow from the northbound approach of Hershey Road is intended to be implemented. A right turn lane from the southbound approach meets traffic volume warrants with the additional traffic from the project, however, it is not proposed for construction due to the constraints on the adjoining property owned by Mount Calvary. The queue analysis reveals the queuing lengths will not exceed the lane lengths at any of the studied intersections. Traffic projections by their nature are applicable to the same use in any situation. Additional traffic considerations will be made during the land development process.

Mr. Newton asked about the study's future traffic projections and whether it considers other developments' traffic projections. None were identified by the Township Traffic Engineer.

Mr. Hershey asked for clarification about the proposed turn lanes. Both a southbound and a northbound turn lane at the Hershey Road/Veterans Drive intersection were considered. The southbound right turn lane is not proposed to be built, though the northbound left turn lane is recommended.

Mr. Hitz referenced the Township Traffic Engineer's review of the study, requesting responses to the review comments. Mr. Schwab responded that they will conduct supplemental traffic counts now that the school district and Elizabethtown College are in session. A supplemental analysis for the warranted right turn lane was requested, to which Mr. Schwab reiterated that it is not proposed due to environmental constraints on the Mount Calvary property. The level of service at the Veterans Drive intersection is projected to be B/C, which is still acceptable. Small level of service gains were deemed to be not enough to overcome the environmental impacts. The Highway Occupancy Permit application for the proposed improvements on Hershey Road will include the municipal reviews and comments for PennDOT's consideration.

Mr. Newton asked if the southbound right turn lane will be reassessed. Yes, once the new traffic counts are completed. Mr. Schwab reiterated that the environmental impacts from widening Hershey Road must be balanced

with the anticipated queuing benefits. Mr. Evans confirmed that the Township is comfortable with where the traffic study is now and what needs to be done to satisfy the Township Traffic Engineer's comments.

Attorney Stephenson cross-examined Mr. Schwab. What does it mean to meet PennDOT warrants with respect to the right turn lane? There is a spreadsheet developed by PennDOT that factors traffic volumes and determines the warranted turn lane length. If the right turn lane meets warrants, why is it not proposed to be built? The volume warrants are met for a right turn lane; however, other impacts or factors may not justify the proposed improvement. In this case, the turn lane will not materially impact the intersection level of service and will encroach upon the environmental features on the adjoining property.

Is traffic generation from convenience stores differentiated by whether alcohol is sold or the quality of food provided? No, because those variables are not factored in the ITE Manual. It considers the size of the building and number of fueling positions. Why are Sunday peak hours not studied when the church across the street lets out? Sunday is not considered in traffic studies because volumes are generally lower than Monday through Saturday, which drive the level of service determinations.

Attorney Stephenson then asked for an explanation of pass-by traffic. Motorists traveling by on Hershey Road that stop into the Sheetz are passing by the site regardless. Does turning in and out of the Veterans Drive intersection add trips through the intersection? Correct. He asked for information on the LOS categories and thresholds as determined by the traffic study, specifically the longest additional delay at the intersection.

- Weekday AM peak hour: 5.1 second delay existing; 21.8 second delay anticipated
- Weekday PM peak hour: 5.7 second delay existing; 19.4 second delay anticipated
- Saturday peak hour: 9.3 second delay existing; 15.1 second delay anticipated

These are averages across all approaches to the intersection. The study breaks down the movements in all directions though. No analysis was conducted for late night traffic impacts per the municipal ordinance requirements. Peak hours are the key drivers of the analysis.

John Morris cross-examined Mr. Schwab. Does the study include traffic coming off of Route 283, specifically any increase due to wayfinding signs posted on the highway? Traffic to and from the highway is factored but not any specific impacts of signs attracting people from the highway. Does it account for the school bus stop on Old Hershey Road near the site or other motorists cutting through the site to avoid a school bus? No. What about additional traffic due to the provision of diesel or propane, especially with an RV campground further up Hershey Road? That is not factored into the traffic study.

Kristy Moore cross-examined Mr. Schwab. Would a convenience store without fuel pumps create less traffic? The ITE Manual addresses this as a convenience store with fuel pumps. Mr. Schwab has not prepared a study for a convenience store without fuel pumps in the past, though he acknowledged that people go to such facilities just for fuel. She was in favor of the southbound right turn lane and identified backups due to the bus stop. What happens when the four-way stop at Veterans Drive and Old Hershey Road is congested? Mr. Schwab noted that they study traffic in general, not necessarily a 30-second window created by something like school bus pickup and drop off. Are the regional Amazon traffic surges accounted for in the study? Not specifically.

Attorney DeBernardis redirected to Mr. Schwab, who confirmed the following:

- If other traffic studies for nearby proposed developments were available, they would have been incorporated into this study.
- The traffic study review process and considerations discussed in the hearing are good examples why most of the traffic details are worked out in the land development process.
- The improvements proposed on Hershey Road are ultimately up to PennDOT's approval in conjunction with the Township.
- Post development, all of the studied intersections will continue to operate at acceptable levels of service.
- Warranted improvements do not necessarily mean there is an inadequacy present.
- Sundays have less traffic than other days, which is why they are not studied.
- Similar facilities studied under this land use in the ITE Manual include locations near highways.

John Morris provided his testimony. He read statements pertaining to the nature of the residential neighborhood as quiet at night despite growing and changing over time. His concerns extend to traffic, crime, and alcohol sales at night near a neighborhood with children. Hammering of stone underlying the site is likely since other businesses in the area needed to do so while under construction. This will be disruptive to the neighbors.

Mr. Morris reiterated concerns about stormwater runoff and groundwater concerns from fuel and other chemicals that would emanate from the site. This could negatively affect water quality into the Conewago Creek where recreation and fishing is common. Traffic already backs up to Route 283 in some evenings and this project will not help. He spoke to the safety of children walking to the bus stop on Old Hershey Road in addition to the convenience of alcohol in proximity to children.

Attorney DeBernardis cross-examined Mr. Morris. Does the current business on the site sell alcohol? Yes. Do other nearby businesses sell alcohol? Yes. Have you been inside of a Sheetz? Yes. Do they serve alcohol to be consumed on property? I do not know.

Attorney Stephenson cross-examined Mr. Morris. If there are noise concerns at night with voices carrying, what would it be like with a 24/7 business here? He is considering moving away. Is the current establishment open 24/7? No. It may close around 9:00 or 10:00 and is not open every day. It does not have nearly the same amount of customers as Sheetz.

Mr. Hitz asked Mr. Morris when the Mount Calvary property is typically used. Youth activities typically take place indoors year-round on Sundays. The baseball team practices there and the administrative offices have moved to that location.

Kristy Moore provided her testimony. She expressed quality of life concerns despite the convenience of having a Sheetz close by. The proximity of the fuel pumps, tanks, and vent stacks to the Rockwood neighborhood is a problem along with chemicals and noise. She acknowledged the commercial nature of properties along Hershey Road, although those businesses do not stay open late or create as much traffic as Sheetz. Increased traffic is incompatible with children living nearby.

Attorney DeBernardis cross-examined Ms. Moore, asking what her main concern is. Safety of children from traffic and health concerns. She did not have any citations available for the health issues raised in her testimony.

Attorney Stephenson brought his witness, Kulwinder Grewal to the stand. He is in the gas station business but operates much smaller facilities. Mr. Grewal spoke about a new Sheetz location near him with drinking, fighting, and traffic issues among the neighborhood. Sheetz installed no left turn signs to manage traffic but motorists frequently disobey them. They spoke to the lack of hardship proven for the time extension variance and objected to the request.

Attorney DeBernardis cross-examined Mr. Grewal. What is your general concern with the proposal? Traffic and drinking at night. Attorney Stephenson asked Mr. Grewal to reiterate the concerns stated in his original testimony.

Attorney Stephenson made his closing statement, beginning by referencing the Municipality Planning Code's criteria for special exceptions and variances. The standards for each type of request are different with variances hinging on hardships. Outdoor storage of propane is in conflict with Section 135-268.F. Has the applicant proven that the safeguards contained in Section 135-383.B(4) pertaining to the surrounding neighborhood have been met?

Kristy Moore made her closing statement, summarized as this site being the wrong location for a Sheetz or other gas station.

John Morris made his closing statement with respect to the applicant not having met the criteria for zoning approvals specifically regarding traffic and pollution. His opinion is a convenience store and gas station are better located near the highway interchange where there is vacant land.

Attorney DeBernardis made his closing statement on behalf of the applicant. He reiterated that the special exception request is only for the proposed fueling station in the Mixed Use District. The applicant is not requesting a use variance; the variance is for a time extension to accommodate various approvals to permit construction. They believe that the application meets the applicable requirements of the Zoning Ordinance.

Testimony was closed. The public comment period was opened.

Calvin Brackbill, 721 Old Hershey Road – Concerns about trash, litter, traffic, and crime.

Valerie Ferrarelli, daughter of the landowner – Lived in Rockwood for 11 years; recounted crime issues in the Rockwood neighborhood. Existing business has truck deliveries. Some people are happy for the Sheetz to be built there.

Kristi Schellhammer, 719 Old Hershey Road – Trucks already travel on Old Hershey Road to the farms in the area. She is not concerned with alcohol sales at Sheetz because other nearby businesses sell it and convenience is good. The site used to be a VFW which served alcohol and kids lived in the neighborhood then.

Solicitor Henry informed the public on the Zoning Hearing Board’s role, power, and limits to their discretion. The Board is not prepared to render a decision tonight. Parties and the applicant should provide their Findings of Fact and Conclusions of Law by Friday, October 18th. A decision will be rendered at the November 6th meeting.

The record was closed.

8. Next regularly scheduled hearing will be held Wednesday, November 6, 2024, beginning at 6:00 p.m.
9. A motion was made by James E. Hershey and seconded by Robert F. Newton, Jr. to adjourn the meeting at 8:45 p.m. All members present voted in favor of the motion.

Respectfully Submitted,



Justin S. Evans, AICP
Zoning Officer

For: Robert F. Newton, Jr., Secretary
Mount Joy Township Zoning Hearing Board