

POTTSTOWN BOROUGH ZONING HEARING BOARD
LEGAL NOTICE

NOTICE IS HEREBY GIVEN that the Pottstown Borough Zoning Hearing Board will conduct a hearing on Wednesday, June 26, 2019, at 7:00 p.m. in the Council Meeting Room, 3rd Floor, Pottstown Borough Hall, 100 E. High Street, Pottstown, Pennsylvania, upon Application of West Pottstown Shopping Center, LLC requesting variances to Chapter 27, Sections 337.5, 601 and 802 of the Pottstown Borough Zoning Ordinance.

The subject property is situated at 121 Shoemaker Road, Pottstown, Pennsylvania in the Highway Business Zoning District. Applicants propose to erect a rear and/or side building addition. The relief requested is as follows:

1. Variances to Ordinance Section 337.5 reduce the side setback from 15 feet to 10.2 feet, reduce the rear setback from 20 feet to 7.5 feet and reduce the front setback from 20 feet to 10.2 feet;
2. A variance to the parking requirements established in Ordinance Section 601;
3. A variance to Section 802 of the Ordinance governing expansion of non-conforming uses is requested since the proposed addition may exceed a ten percent (10%) expansion of the existing non-conforming use or building.

Copies of the Application may be examined by the public at the Pottstown Borough Licensing and Inspections Department, Pottstown Borough Hall, 100 E. High Street, 2nd Floor, Pottstown, Pennsylvania during regular business hours, 7:30 a.m. to 4:00 p.m., Monday through Friday.

At the time of the hearing, any affected persons or parties will be given an opportunity to be heard. Any party may be represented by legal counsel at the hearing. The Board reserves the right to conduct any other business that may come before it.

POTTSTOWN BOROUGH ZONING
HEARING BOARD

Robert E. Johnson, Chairman

R. Kurtz Holloway, Esquire, Solicitor



GROSSMcGINLEY LLP
ATTORNEYS AT LAW

Jason A. Ulrich

33 S. Seventh Street, P.O. Box 4060
Allentown, PA 18105
Direct Dial Number 610-871-1352
julrich@grossmcginley.com

RECEIVED MAY 14 2019

ATTORNEYS

MALCOLM J. GROSS
PAUL A. MCGINLEY
HOWARD S. STEVENS
J. JACKSON EATON, III
MICHAEL A. HENRY
ANNE K. MANLEY
VICTOR F. CAVACINI
THOMAS E. REILLY, JR.
STUART T. SHMOOKLER
JOHN F. GROSS
ALLEN I. TULLAR
RAYMOND J. DeRAYMOND
THOMAS A. CAPEMART
KIMBERLY G. KRUPKA
LOREN L. SPEZIALE*
SAMUEL E. COHEN*
SARAH M. MURRAY
ADRIAN K. COUSENS*
R. NICHOLAS NAMOVIC*
JENNIFER L. WEED*
GRAIG M. SCHULTZ*
JASON A. ULRICH
MICHAEL J. BLUM*
CHRISTOPHER W. GITTINGER
CONSTANCE K. NELSON
SARAH HART CHARETTE*
KELLIE L. RAHL-HEFFNER
NICHOLAS SANDERCOCK
H. ROSS RAMALEY
CHRISTOPHER R. GRESH*
DONALD LaBARRE, JR., Ret.
CHARLES J. FONZONE, Ret.

Of Counsel:
PATRICK J. REILLY*
MARIANNE S. LAVELLE

Special Counsel:
NEIL E. WENNER

*Also admitted in NY
*Also admitted in NJ
*Also admitted in DC
*Also admitted in MA
*Also admitted in TX
*Also admitted in NM
*Also admitted in FL

Allentown Office:
33 S. Seventh Street
P.O. Box 4060
Allentown, PA 18105
Phone: 610/820-5450
Fax: 610/820-6006

Easton Office:
101 Larry Holmes Drive, Suite 202
Easton, PA 18042
Phone: 610/258-1506
Fax: 610/258-0701

Lehighton Office
415 Mahoning Street
Lehighton, PA 18235
Phone: 610/377-0500

May 13, 2019

VIA FEDERAL EXPRESS OVERNIGHT

Borough of Pottstown
Licensing and Inspections
Borough Hall
100 East High Street
Pottstown, PA 19464-9525

RE: Application to the Zoning Hearing Board of the Borough of Pottstown – 121 Shoemaker Road

To Whom It May Concern:

Please accept the enclosed original, six (6) paper copies and a digital copy of an Application to the Zoning Hearing Board of the Borough of Pottstown and filing fee with respect to property located at 121 Shoemaker Road. I understand that this matter will be placed on the agenda for the June 25th meeting of the Zoning Hearing Board. If this will also be on the agenda for Council, the Planning Commission, or committee discussion, please let me know so that we can appear.

If I can provide anything further, please feel free to contact me.

Thank you.

Kind regards,

Jason A. Ulrich

Enclosures

**BEFORE THE ZONING HEARING BOARD
OF THE BOROUGH OF POTTSTOWN
MONTGOMERY COUNTY, PENNSYLVANIA**

IN RE:

ENTRY OF APPEARANCE

To The Zoning Hearing Board:

1. Please enter my appearance in this action

_____ as a party under Section 908(3) of the Municipalities Planning Code.
 as attorney for West Pottstown Shopping Center, LLC

2. I ~~do~~ do not wish a copy of the transcript at my expense.

3. do/do not wish a copy of the Board's written decision at my expense.

5/13/19
Date


Signature

33 S. 7th Street, P.O. Box 4060

Address
Allentown, PA 18101

For Zoning Hearing Board Use Only

- | | | |
|--|-------|-------|
| 1. Was the person questioned about standing? | _____ | _____ |
| 2. Was there an objection to standing? | _____ | _____ |
| 3. Was the person "affected" by the application? | _____ | _____ |
| 4. Was the person granted status as a party? | _____ | _____ |

Signature

INFORMATION FOR PERSONS APPEARING BEFORE THE ZONING HEARING BOARD

The Zoning Hearing Board is an independent branch of the local government that consists of residents of the Borough of Pottstown, appointed to the Board by Borough Council, one of whom serves as its chairperson. An attorney, who is called the Solicitor, represents the Board.

The members of the Zoning Hearing Board are not permitted to communicate, either directly or indirectly, with the applicant, or his or her representatives, or any other person interested in the application, except at the time of the hearing. Similarly, the Zoning Hearing Board is not permitted to review any written material other than that submitted with the application at the time of the hearing.

Although the Zoning Hearing Board is not required to follow the formal rules of evidence at its hearings, it conducts a formal hearing, similar to a court proceeding. A court stenographer is present to make a record of the hearing.

The applicant and any other person who has been recognized by the Zoning Hearing Board as a party to the proceedings have the right to be represented by legal counsel at the hearing. Neither the Zoning Hearing Board nor its Solicitor may provide legal advice to participants at the hearing. Likewise, neither the Zoning Hearing Board nor its Solicitor will attempt to represent or assist a party in the presentation of the case.

It is the burden of the applicant to prove his or her case and to submit evidence that supports the application. It is not the responsibility of the Zoning Hearing Board to gather evidence or information for the applicant. The Board, as a quasi-judicial body, may only hear and receive evidence that is given under oath and that is subject to cross-examination, or other evidence submitted at the time of the hearing that it deems credible.

The Zoning Hearing Board does not write the Borough Ordinances, nor does it have the power or jurisdiction to address all issues that may be raised at a zoning hearing. The Zoning Hearing Board does not have any enforcement powers. Rather, it can be considered to be the judicial branch of the local government for zoning matters that is separate and distinct from the Borough administration.

Zoning Hearing Board of
Borough of Pottstown

File No. _____
Date Fully Completed Application Received _____
Date of First Advertised Hearing _____
Amount of Fees Paid \$ _____ Receipt No. _____

(DO NOT WRITE ABOVE THIS LINE)

**ZONING HEARING BOARD
BOROUGH OF POTTSTOWN, PA 19464**

APPLICATION / APPEAL

Applicant(s)	West Pottstown Shopping Center LLC	_____
	Name	Name
	2215 Quentin Road	_____
	Address	Address
	Brooklyn, NY 11229	_____
	Address	Address
	solk@dsjmanagement.com	_____
	Email Address	Email Address
	(718) 614-5435	_____
	(Phone)	(Phone)

Applicant's Attorney: Jason Ulrich _____
Name
33 S. 7th St., P.O. Box 4060, Allentown PA18101 _____
Address
julrich@grossmcginley.com _____
Email Address
(610) 820-5450 _____
Phone

Request for Hearing:

In accordance with the provisions of Section 905 of the Borough of Pottstown Zoning Ordinance, a hearing before the Zoning Hearing Board is requested in which the applicant(s) will seek an adjudication of the matter(s) indicated below:

Type of Proceeding(s): (check all that applies)

1. A variance is requested to Chapter 27, Section(s) 337, 601 of the Zoning Ordinance.
2. A variance is requested to Part 3, Section 314 relating to uses permitted in a Floodplain Overlay District.
3. A variance is requested to Part 3, Section 315 relating to uses permitted in an Airport Overlay District.
4. A special exception is requested as allowed in Chapter 27, Section _____ of the Zoning Ordinance.
5. This is an appeal from the determination of the Zoning Officer with respect to the granting, denial or failure to act on an application for a permit.
6. This is an appeal from an enforcement notice issued pursuant to Section 616.1 of the Pennsylvania Municipalities Planning Code. (Attach a copy of the enforcement notice)
7. This is a substantive challenge to the validity of a land use ordinance or map, or a provision thereof. (The customary written challenge should be filed with this application).
8. This is a challenge to the validity of a land use ordinance raising procedural questions or alleging defects in the process of adoption. (The customary written challenge should be filed with this application)
9. Any other appeal from a determination by an officer, body or agency of the Borough charged with the administration of any land use ordinance or application thereunder, to the extent that determination is appealable to the Zoning Hearing Board under the Municipalities Planning Code.

The Status of the Applicant(s) is: (check one)

- A. A person who has an interest in land, the use or development of which is prohibited or restricted by an ordinance or map, or a provision thereof. (Landowner must attach a plot plan as set forth in #8 below).
- B. A person affected by a use or development permitted on the land of another by an ordinance or map, or a provision thereof.

General Information about the Land:

1. The land involved belongs to:

- A. Record Owner(s): West Pottstown Shopping Center LLC
- B. Date purchased: June 24, 2008
- C. Deed Book 5708 Page 632 (Attach copy of Deed)
- D. Equitable Owner(s): N/A
- E. Date of Agreement: N/A

2. The land is located as follows:

- A. Name of street providing primary access: Shoemaker Road
- B. Address: 121 Shoemaker Road
- C. Which side of street: East Side of Route 100
- D. Identify nearest street intersection and approximate distance and direction:
PA Route 100

3. The land is configured as follows:

- A. Width at street (frontage): See exhibit
- B. Approximate average width: See exhibit
- C. Approximate average depth: See exhibit
- D. Lot / parcel size: See exhibit

4. Present improvements on the land are:

Two (2) Commercial Real Estate Buildings and a parking lot

5. Present use is:

Shopping center

6. Zoning District: NR TTN D NB DG GE GW P FO ~~HB~~ HM

7. Improvements being proposed:

Rear building addition.

8. Proposed use:

Shopping Center addition for tenant, Harbor Freight, Inc.

Specific Information about this application / appeal:

(Set forth in complete detail what relief you are seeking from the Zoning Hearing Board; a brief summary of the necessary facts to be proved at the hearing; what law or legal theories pertain; what hardships will be shown; which provisions of ordinances or maps are being challenged; what official determination, action or failure to act is being appealed, etc. Attach additional sheets if necessary).

We are seeking a reduction in side set-back requirements from 15 feet to 10.2 feet and a reduction in rear set-back requirements from 20 feet to 7.5 feet. We have also included a request for a parking variance, but are unsure if such will be needed. Our Engineer is reviewing to determine if such is required, and if not, such request will be withdrawn as the time of the hearing.

By signing this application, the applicant(s) certifies as follows:

1. The applicant(s) is the owner of the land in question, he/she has attached a plot plan showing the location, lot size, dimensions, north point, scale, adjoining owners, existing buildings and improvements, and proposed buildings and improvements.
2. The applicant(s) has received and read the document entitled "Information for Persons Appearing Before the Zoning Hearing Board".
3. All the information and statements in this application and any documents or plans filed in this matter are true and correct to the best of the applicant's knowledge, information and belief and applicant(s) understands this verification is made subject to the penalties of 18 PA C.S.A. Section 4904 (relating to un-sworn falsifications to authorities).

Sol Khoudari

Property Owner (Print)



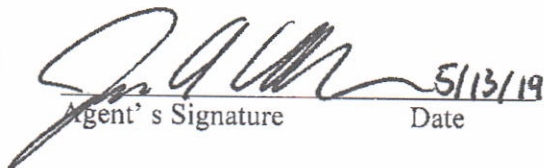
Owner's Signature

5/10/19

Date

Jason Ulrich

Agent (Print)



Agent's Signature

5/13/19
Date

**RECORDER OF DEEDS
MONTGOMERY COUNTY
Nancy J. Becker**

One Montgomery Plaza
Swede and Airy Streets ~ Suite 303
P.O. Box 311 ~ Norristown, PA 19404
Office: (610) 278-3289 ~ Fax: (610) 278-3869



DEED BK 5708 PG 00632 to 00637.2
INSTRUMENT # : 2008094834
RECORDED DATE: 09/22/2008 10:28:39 AM





0378367-0015V

MONTGOMERY COUNTY ROD

OFFICIAL RECORDING COVER PAGE

Page 1 of 8

Document Type: Deed	Transaction #: 288336 - 1 Doc(s)
Document Date: 06/24/2008	Document Page Count: 5
Reference Info:	Operator Id: tbutler
RETURN TO: (Simplifile) Stewart Abstract 1100 Berkshire Boulevard, Suite 100 Wyomissing, PA 19610 (610) 372-8201	SUBMITTED BY: Stewart Abstract 1100 Berkshire Boulevard, Suite 100 Wyomissing, PA 19610 (610) 372-8201
* PROPERTY DATA:	
Parcel ID #: 16-00-18200-00-9	16-00-18200-10-8
Address: 121 SHOEMAKER RD	0 SHOEMAKER RD
Municipality: PA Pottstown Borough	PA Pottstown Borough
School District: Pottstown	Pottstown
* ASSOCIATED DOCUMENT(S):	
CONSIDERATION/SECURED AMT: \$0.00	DEED BK 5708 PG 00632 to 00637.2 Recorded Date: 09/22/2008 10:28:39 AM
FEES / TAXES:	I hereby CERTIFY that this document is recorded in the Recorder of Deeds Office in Montgomery County, Pennsylvania.
Recording Fee:Deed \$46.50	
Affidavit Fee \$1.50	
Additional Pages Fee \$2.00	
Additional Parcels Fee \$1.50	
Affordable Housing Pages \$2.00	
Affordable Housing Parcels \$0.50	
Misc Fee \$5.00	
Total: \$59.00	  Nancy J. Becker Recorder of Deeds

PLEASE DO NOT DETACH

THIS PAGE IS NOW PART OF THIS LEGAL DOCUMENT

NOTE: If document data differs from cover sheet, document data always supersedes.

*COVER PAGE DOES NOT INCLUDE ALL DATA, PLEASE SEE INDEX AND DOCUMENT FOR ANY ADDITIONAL INFORMATION.

