

7. A hearing was scheduled before the Millersville Borough Zoning Hearing Board for October 28, 2021.

8. The application was advertised, the property was posted, and adjoining property owners were notified.

9. An agenda of the meeting was posted more than 24 hours prior to the time of the meeting at the Borough municipal building, which was the place of the hearing, and also on the Borough website. Copies of the agenda were available for the public at the time of the hearing.

10. The hearing was stenographically recorded.

11. The Board members present were Lindsay Gerner, chairman; Vickie Usciak, member; Karen Eckert, member; and W. David Sykes, alternate. Mr. James Kirk, member, was absent. James Sanchez, vice chairman of the Board, recused himself from participation because he was representing the Applicants.

12. At the outset of the hearing, Mr. Sanchez stated that Applicants were withdrawing the request with respect to landscape relief and stated that landscaping would be provided in accordance with ordinance requirements. That left the request for a special exception to allow a commercial use on a residentially zoned area of the property as the only request before the Board.

13. Jay Singh, a co-owner of the corporation owning the real estate, and one of the principals in the business, was present and testified.

14. The property at 36-38 Manor Avenue is improved with an automotive garage, car wash, and U-Haul truck rental facilities. The property adjoins several residential properties on Landis Avenue to the rear.

15. Applicant has purchased an area comprising .14 acres in the rear of its property and proposes to add that lot onto the property on Manor Avenue. Although the property on Manor Avenue is zoned Neighborhood Commercial, which allows the commercial use, commercial uses are not allowed in the Residential District to the rear.

16. Applicant wishes to utilize the .14 acre lot as part of its commercial business.

17. Mr. Sanchez noted that the approval of the Zoning Hearing Board is necessary before the matter can proceed further with land development and the lot add-on process.

18. At the time of the hearing, Mr. Sanchez introduced Applicant's Exhibit #1, a revised plan showing Applicant's proposal to development the lot add-on area of its property.

19. Although Mr. Sanchez requested leave to amend the application to include a request for a lot coverage variance, the solicitor advised the Board that, due to recent amendments of the Sunshine Act, the Board could not add an additional request to the public agenda even if it was prepared to waive any issues regarding advertisement. Mr. Sanchez then withdrew the request.

20. Several nearby neighbors on Landis Avenue asked questions and spoke regarding the application, but once it was understood that a landscape buffer would be provided in accordance with the zoning ordinance, they had no objections.

21. Following the conclusion of testimony, the Board voted unanimously to grant the special exception as presented.

B. CONCLUSIONS OF LAW

1. Although most of the subject property is zoned Neighborhood Commercial, the lot add-on portion is zoned R-1 Residential.
2. Commercial uses are not allowed on an R-1 Residential lot.
3. The requested relief constitutes a natural expansion of the commercial use.

C. DISCUSSION

This application involves the acquisition by a business of a small portion of a residential lot adjoining the rear of its property. As Mr. Sanchez noted, acquisition of this tract squares off the lot so that the rear property line is straight, rather than irregular. The grant of a special exception will simply mean that the same kinds of commercial uses which take place on the same lot immediately to the east will also be allowed on this .14 acre tract.

If this case had involved a request to eliminate requirements respecting landscaping and screening, this would have been a matter of deeper concern for the Board. This is simply a question of allowing the Applicant to use his entire property for commercial purposes. We cannot discern any benefit in requiring Applicant to keep this small portion of his commercial property devoted to residential purposes, since it is too small to support a residence.

D. DECISION


AND NOW, this 28th day of October, 2021, Applicant's request for a special exception to allow the commercial use of the portion of the property being acquired by lot add-on is granted.

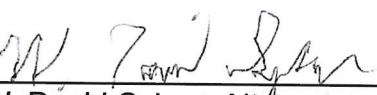
Applicant shall improve and occupy the subject tract in accordance with the exhibits presented and testimony offered at the hearing.

MILLERSVILLE BOROUGH
ZONING HEARING BOARD

By: 
Lindsay Gerner, Chairman

By: 
Vickie Usciak, Member

By: 
Karen Eckert, Member

By: 
W. David Sykes, Alternate

James Sanchez, Vice Chair, recused himself from this decision and James Kirk was not present.