

**MOUNT JOY BOROUGH ZONING HEARING BOARD
MINUTES of SEPTEMBER 23, 2020**

The Zoning Hearing Board met in the Council Chambers of the Mount Joy Borough Offices, 21 E. Main Street, Mount Joy, on the above date. The meeting was called to order at 7:00 p.m. by Bob Marker. Board members present included George Leyh, Ned Sterling, and Bruce Haigh. Borough officials in attendance included Stacie Gibbs, Zoning Officer. Zoning Hearing Board Solicitor, Joseph Kenneff, Esquire, was present. Michelle Parke, court stenographer was also present.

MINUTES

Meeting minutes of May 27, 2020 were approved as corrected on a Motion by Haigh and a second by Sterling which passed unanimously 4-0.

NEW BUSINESS

Bob Marker read the Standard Board Procedures to all those present. There were no objections to the jurisdiction of the Zoning Hearing Board nor were there any challenges as to the personal or business interest of any member of the Board.

Stacie Gibbs, Zoning Officer was sworn in.

CASE NO. 1

The applicants, J. Michael and Wendy S. Melhorn, 612 W. Main Street, Mount Joy, PA 17552, requested a Special Exception of Section 270-63D(8), to use the lot at 838 Clay Alley, Mount Joy, PA 17552 for outdoor storage as a principal use for truck, trailer and RV parking. The property is in the Light Industrial Zoning District.

EXHIBITS

BOARD:

- B-1 – Zoning Hearing Board Application
- B-2 – Legal Ad with Proof of Publication.
- B-3 - Neighbor Notification Letters.

Dave Keener, PE with GDKeener LLC was sworn in and J Michael Melhorn was also sworn in.

QUESTIONS AND TESTIMONY

1. Attorney Kenneff asked if the address of the property for the case is, 838 Clay Alley. Keener confirmed address.
2. Kenneff asked if the zoning district is Light Industrial. Keener confirmed zoning district as Light Industrial.
3. Kenneff asked if size of the lot is approximately 39,663sf. Keener confirmed size of the lot.

4. Kenneff asked what buildings are currently on the property. Melhorn advised there are currently no buildings on the property. Melhorn advised there were storage units and a 2- story apartment building with a garage on the property when he purchased it. Melhorn advised they previously demolished them.
5. Kenneff asked what the current use of the property is. Melhorn advised the property is a grass field with one shed that remains, and it is not a permanent structure.
6. Kenneff asked if the proposal is to lease out the area as RV and truck storage. Melhorn advised it will be additional storage for any resident.
7. Kenneff asked if Melhorn will be operating it or will a third party be operating it. Melhorn advised he and his wife Wendy will be operating it.
8. Kenneff asked Melhorn to confirm if they are proposing 15 spaces available for RV/truck storage. Melhorn advised yes, and campers and boats.
9. Kenneff asked if the limit will be 15 vehicles. Melhorn advised the largest vehicle will be a truck. Keener advised the engineering use for trucks is the 53' trailer and that is what they showed on the layout and what is presented. The layout shows 50' radius and 100' diameter that is needed for truck turning.
10. Kenneff advised that he saw 15 vehicles at a time. Keener advised that would be the amount of spaces needed for the largest use.
11. Kenneff asked if there could be more than 15 vehicles at a time. Melhorn advised there could be.
12. Kenneff asked what would be the most vehicles stored at the lot. Melhorn advised that would be hard to determine and would depend on what would be parked.
13. Kenneff asked them to describe how the vehicles would navigate through the lot. Keener advised Clay Alley is across the top of the lot to the North and Plum Street is to the West and Square Street is to the South. Plum Street is where they anticipate traffic entering the lot at the mid-section of the lot. Keener advised the 50' radius would be used for a 53' trailer and it can make the turning movements needed in the lot which would be for the largest vehicle to use the lot. Keener advised if there were smaller vehicles, he could see twice that number being in the lot. They do not anticipate seeing that many.
14. Keener further advised Neighborhood Commercial is to the North and Residential to the East. Keener advised with the parking along the East side of the lot, they propose to install a buffer on that side.
15. Keener further advised the Exhibit shows safety lighting on the lot and would shine towards the West to shield the residential properties.
16. Keener advised they are also showing a possible 6' fence to be installed.
17. Keener advised they are aware stormwater management is required and are prepared to do stormwater for the project. They plan to add gravel/stone, which is impervious, so stormwater is required.
18. Keener advised the one shed that remains in the North East corner can be moved or taken off the lot if needed.
19. Keener advised the lot coverage is a maximum of 90% coverage and what is demonstrated is it will be less than 90% and would comply.
20. Keener advised there is no building proposed.
21. Keener advised parking is a permitted by right use in the Light Industrial zoning district. But it was determined this use is outdoor storage.
22. Kenneff advised self-storage is also a permitted by right use in the Light Industrial zoning district and are somewhat comparable to this request.
23. Haigh asked if tractor trailers are considered a truck. Haigh said he looked at JJ. And it deals with trucks, boats and campers and does not deal with tractor trailers or semi-trailers. Haigh advised JJ is the real classification of a 53' tractor trailer.

24. Marker asked if this is being called warehousing or storage as a principal use.
25. Kenneff advised the proposal is for outdoor storage which requires a special exception and does not say it has to be a certain kind of trucks.
26. Kenneff asked what the hours of operation are. Melhorn advised the anticipated hours are 6AM-6PM Monday through Saturday. Melhorn advised if someone wants to come in to pick up their vehicle at 3AM because they are going to Florida, he will allow it.
27. Kenneff asked if this will be fenced in or if folks will need a key card to access it? Melhorn advised it is not their intention to install a fence at this time, but if the customer base requests secured storage, they might consider it. Melhorn advised right now he is not proposing a fence.
28. Kenneff advised in the application Melhorn anticipated 15 trips per day. Melhorn advised it is hard to determine how many trips per day someone would go in and out. Marker advised that seems like a very high number.
29. Marker asked what kind of vehicles would be coming and leaving that lot every day. Melhorn does not know.
30. Marker asked if another business wants to use it would it be allowed. Melhorn advised the auto auction might use it and go in and out.
31. Kenneff asked if there is a plan to keep vehicles from just parking there at any time that are not paying rent to store vehicles there. Melhorn advised he does not have a plan. He advised they own a lot of property in that area and the impact on the neighborhood is important to him.
32. Kenneff asked if it will occupy existing or future street right-of-way. Keener advised it will not and is setback to the current code requirements.
33. Kenneff asked if it will be occupying a sidewalk. Keener advised it will not be occupying a sidewalk.
34. Kenneff asked if it is in a floodway or on a slope greater than 25%. Melhorn advised it is not.
35. Kenneff requested they talk about the nuisance characteristics and impact on the neighborhood. Keener advised there will be no flammable or noxious fumes produced from the site. Keener does not foresee any impact to the surrounding area and there are a lot more intensive uses permitted by right in the Light Industrial zoning district. Keener advised there could be more impactful uses allowed here than the outdoor storage.
36. Leyh advised Peach Alley is adjacent to the site and it is an unopened alley. Melhorn advised they plow snow for the neighbors to keep it open in the winter. Leyh advised there is a garage back there for a property owner. Leyh asked if the buffer and/or fence would impact or encroach onto the alley. Melhorn advised the buffer will be 10' off the property line and not in the alley. Melhorn advised he owns property there and has a garage facing west and will do nothing to impact the alley negatively.
37. Leyh asked what percentage of the lot will be stoned. Keener advised the exhibit is showing it to be less than 90% and 90% is what is permitted by the zoning.
38. Leyh asked if it will be regraded with any intentions to pave it in the future. Melhorn advised he has no intention on paving in the future.
39. Gibbs advised stone is considered impervious and is defined as such in the zoning ordinance. The applicant will have to submit a stormwater application and plan and receive recommendations from the Planning Commission and action by Council.
40. Leyh asked if there is any plan to clean up if a vehicle is dripping anything on the lot. Melhorn advised he owns the lot, and he will not be allowing anything on the lot that will be detrimental or impactful.
41. Marker asked what the plans are for the buffer yard. Keener advised there will be a mixture of trees and shrubs.

42. Sterling asked if the applicant should have submitted the buffer plan. Marker advised that will be a building review. Marker advised generally this gets covered and reviewed when the applicant applies for a building permit and they normally have no jurisdiction. Marker did advise he saw that when applying for a Special Exception that kind of stuff is submitted. Kenneff advised the Board can require as a condition, a buffer yard to be installed and a plan to comply.
43. Sterling advised he would like to see where these trees are going and would like to see a plan.
44. Sterling asked if there will be street trees on Square or Plum Streets. Melhorn advised there will be some on Plum because of how the entrance will be laid out. Melhorn advised there will be some landscaping to define the entrance. Melhorn advised they will not be doing anything that will be offensive. He reminded Sterling he owns property back there and would do nothing offensive. Sterling again stated he would like to see a landscape plan.
45. Sterling asked why street trees are not going to be planted on Square Street. Gibbs advised it is not required. Marker advised it is not required by ordinance.
46. Kenneff asked if Melhorn will comply with screening requirements. Melhorn confirmed he will comply with all screening requirements.
47. Sterling asked if the Zoning Hearing Board will be able to review the buffer plan. Kenneff advised he has never seen a specific buffer plan presented to a Zoning Hearing Board. He has seen plans that indicate where the buffer will be located but not exact locations and numbers of trees and shrubs. The applicant has testified he will comply with the screening requirements of the ordinance.
48. Kenneff advised that the Board would have to come back for another public hearing to review a buffer plan if that is what the Board chooses to do so it would be part of the record. Gibbs advised if a buffer plan is not in compliance with the ordinance then the permit will be denied.
49. Keener advised the purpose of the plan is to demonstrate they recognize the buffer is required and they allowed for it in the plan. Keener advised this is not a very intensive use. In presenting it they wanted to show and recognize they are putting buffers in and they will be designed in accordance with the ordinance.
50. Marker advised the Board could hold them to their 10-foot buffer yard because the zoning ordinance only requires a 5-foot buffer.
51. Leyh asked if the lighting will be installed right away. Melhorn advised the lighting will be installed right away because he believes it has too.
52. Haigh advised the lighting standards in the ordinance are specific. Haigh advised if Melhorn complies with the ordinance then the lighting will not be intrusive. Haigh advised the ordinance states a lighting plan is to be submitted as part of the site plan to the Zoning Hearing Board.
53. Haigh advised at one time there were 23 garages on this site which he thinks they were for carriages or something. Haigh advised this has been a historical site for parking. Haigh advised Melhorn is asking to turn an accessory use into a principal use. Haigh further advised he has concerns about section 270-83.A.2 which states that you have to install asphalt for an off-street parking area and the applicant is asking for gravel. Gibbs advised that section is only required for required off-street parking. Gibbs advised this is not a required off-street parking lot. Gibbs reminded Haigh this is for principal outdoor storage. Haigh said it does not say required it just says standards for off-street parking.
54. Haigh advised that each motor vehicle may proceed to and from the parking space provided without requiring movement of another vehicles. Marker advised he would

- not call this off-street parking as it is proposed storage. Haigh advised he asked for off-street parking in the application.
55. Gibbs read section 270-83.E.2 which states, "except for landscape areas, all portions of required parking, loading facilities and driveways shall be surfaced with asphalt, concrete or paving block. Gibbs advised this section does not apply because this is not a parking lot. Gibbs advised if it were to be a parking lot, Melhorn would not even be here because a parking lot is a permitted by right use in the Light Industrial Zoning District. This request is for storage. A parking lot is where folks are coming and going. This is for storage for periods of time for short term or long term. Folks will be paying for a lease.
 56. Haigh advised he will go back to the project description. Haigh read a project description where he said it states the owner proposes to lease the lot for truck, trailer, or RV parking.
 57. Gibbs advised that is what you do when you pull in, you park the item or store it.
 58. Haigh asked why this would not have qualified under JJ for storage facilities. Gibbs advised she was not familiar with JJ.
 59. Kenneff advised JJ is for self-storage development which is defined as a building or group of buildings divided into separate, individual access units which are rented or leased.
 60. Gibbs advised the definition of parking is off-street parking in aisles for vehicle movement unless otherwise stated. Gibbs advised this is not self-storage and not a parking lot.
 61. Haigh asked Gibbs what is Melhorn entitled to right now. Kenneff advised this request is for a Special Exception so it is presumed this meets the Light Industrial District requirements unless proven that it is not. Gibbs advised it is vacant land and he is not entitled to do anything until he receives approval, submits a permit application and a permit is issued. Gibbs advised that is why he is here.
 62. Haigh advised the application states there are 12 existing parking spots. Marker asked what Haigh's directive is here. Marker asked if Haigh is trying to get Melhorn to pave it.
 63. Haigh advised he is not asking Melhorn to pave it if he is not required to. He referred to Gibbs's previous statement that this is not off-street parking so paving is not required.
 64. Marker asked again what the conversation is. Haigh asked if this is Light Industrial then why cannot he park on it to begin with without going through a special exception. Marker advised this is for the storage of trailers, RV's and trucks which does not qualify as off-street parking. Kenneff advised it does not qualify for self-storage development either. Kenneff advised since it did not fit in to either of those categories, the special exception category for outdoor storage is required.
 65. Haigh asked how many tractor trailers does Melhorn envision to be on the lot. Melhorn advised he was not sure, and it will depend on how many customers want to sign a lease to store a tractor trailer.
 66. Melhorn advised he thinks a lot of people spend a lot of money to store trucks, RV's, and boats. Melhorn advised this is a great way for people to get their RV's, tractor trailers, boats, and trailers off the streets where they are not allowed to park anyway.
 67. Marker advised there is a lot of other truck traffic up in that area. Melhorn advised they looked at that and is why they thought they were not impacting the neighborhood.
 68. Gibbs asked where on the application did it say they had 12 existing parking spaces. Haigh said it is on the drawing. Keener advised under the site data he included the parking that existed for the units that previously existed there.
 69. Sterling asked if a 10' buffer is the same as a setback. Gibbs advised it is not the same. Marker advised there are no buildings proposed so no setbacks.

70. Haigh asked if they gave any consideration in having an entrance off Plum Street and an exit off Square Street. Melhorn advised that is not a good idea with H&R Transload truck activity on Square Street. Gibbs agreed it would be tight with H&R Transload truck turning movements being right across on Square Street. Haigh said this would create a way for trucks not to have to turnaround on the lot.
71. Keener advised they would take into consideration the comments, but they are here to talk about the use. Haigh said he does not want to see trucks up against Peach Alley because the residents will see the backs of the trucks unless you install a 10' high fence. Keener advised the ordinance does not allow for 10' high fences. Gibbs advised a buffer does not have to be as tall as the tallest thing or building on a lot. Gibbs advised a buffer is to provide a strip of land to separate one use from another use.
72. Melhorn advised he owns property where Haigh is talking about. Haigh said there are 5 properties and asked Melhorn if he owned all 5. Melhorn advised he does not own all 5 properties. Melhorn advised there are all garages back there and he will take in account what he does because he is part of the neighborhood and would not do anything that will impact the neighborhood negatively.
73. Leyh advised he looks at the houses that are on Peach Alley and they all face Market Avenue and are not looking at the lot. Leyh advised what is on Peach Alley adjacent to this lot are garages. Leyh just wants the applicant to move towards the direction of making it athletically pleasing for the residential neighborhood adjacent to the lot. Leyh believes that is what the Board is trying to say.

Attorney Kenneff opened the meeting up for public questions.

1. Ray Shelly, 121 S. Market Avenue, Mount Joy, PA, asked who he would ask questions about traffic patterns in this situation. Shelly advised the applicant said traffic would use Main Street to Plum Street. Shelly asked what if some guy does not know exactly where he going or wants to take a short cut through Clay Alley, what is going to stop him from doing so? Kenneff advised he does not know if there is anything. Melhorn advise he does not believe trucks can make that turn. Kenneff advised that would be for any truck coming through town for any capacity. Shelly asked if there would be signs installed? What if a truck turns onto Clay Alley from Angle Street? Haigh advised the Deed has the frontage on Square Street and the accessors office has the address as Clay Alley. Haigh asked if the address could be changed to an address on Square Street or Plumb Street. Gibbs advised that can be worked on with the applicant. Melhorn advised if anyone is going to lease from him, a conversation would take place regarding the route to take or not to take to get to the lot. Haigh advised it may be a different person picking up the vehicle who might not know which direction to take.

Attorney Kenneff opened the meeting up for public comment.

Mike Higgins, 900 Square Street, Mount Joy, PA with Reist Popcorn Company was sworn in

1. Mike Higgins advised that he supports this endeavor and if you were to look at other Light Industrial uses, some have 90' tall structures. Higgins advised Melhorn is asking for something extremely simple and with the buffer he is going above and beyond. He advised the Melhorns have made huge improvements to the Borough with every property they own. Higgins advised he does not see why this would be a different scenario.

Alex Giagnoco, 903 Square Street, Mount Joy, PA, owner of Fox Chapel Publishing was sworn in.

2. Alex Giagnoco advised he would like to support the application. Giagnoco advised the property, when the Melhorns purchased it was not beautiful and they did a great job with it, and sat on it without trying to monetize it for a while and has been taking good care of it. Giagnoco advised for these types of meeting the businesspeople should be trusted. They should not be placed through the ringer and told you want to see the trees. Giagnoco advised this is what is holding the country back when it takes 2 years to get approval for simple things. Giagnoco advised everyone of these meetings has an economic effect because they are delayed a month then brought back to look at this or that. Giagnoco advised the businesspeople then say forget it and decide to then by a farm.

Attorney Kenneff closed the taking of public comment and question. Attorney Kenneff asked if there were any additional comments.

Marker advised there are reasons we do this and did not take two years it took 2 hours. Marker advised. Giagnoco advised he has been traumatized by a Zoning Hearing Board. Marker asked if it was this one. Giagnoco said it was not this Board.

Haigh advised he is a small business owner and if Melhorn came to him and this was in the Light Industrial Zoning District and there was nothing around he would say no issues whatsoever but there is residential zoning districts around it. Haigh advised it is unfortunate that what Melhorn wants to do is not in the Ordinance. Haigh advised the Board has obligations to the applicant to be fair and make fair decision and they also have obligations to Borough Council and the community. Haigh advised if the applicant were Donald Duck and Daffy Duck it would be no different with the questions he would ask. Haigh advised if you have a complaint with a Zoning Hearing Board, it is not this Zoning Hearing Board. Haigh advised he said in the audience on two other cases and he feels the Board has been very fair.

ACTIONS BY THE BOARD

A motion was made by Sterling and seconded by Leyh to grant the application made by J. Michael and Wendy S. Melhorn, 612 W. Main Street, Mount Joy, PA 17552, for a Special Exception of Section 270-63D(8), to use the lot at 838 Clay Alley, Mount Joy, PA 17552 for outdoor storage as a principal use for truck, trailer and RV storage conditioned upon a 10 foot buffer yard being installed on the east and north side of the property as agreed upon by the applicant, and conditioned upon visual landscaping being installed in accordance with the Ordinance. *The Motion passed by a 4-0 vote*

ADJOURNMENT

**On a motion by Leyh and a second by Sterling, the meeting was adjourned.
*Motion carried 4-0.***

Respectfully submitted,

Adopted this ___ day of _____, 2020

Stacie Gibbs, Zoning Officer

Ned Sterling, Secretary