

**ZONING HEARING BOARD OF WARWICK TOWNSHIP  
BUCKS COUNTY, PENNSYLVANIA**

Docket No. 23-01

Applicants: FW PA-Warwick Plaza, LLC  
P.O. Box 2539  
489 Regency Centers D  
San Antonio, TX 78299

Owner: Same.

Subject Property: Tax Parcel No. 51-003-099 for property known as 2395 York Road within the Warwick Square Shopping Center

Requested Relief: The Applicant is seeking the following variances from the Warwick Township Zoning Ordinance (“Ordinance”): §195-97B(3)(b)[3] to permit two (2) wall signs for the proposed Grocery Outlet (Space 1A); to permit a total wall sign area of 131.3 square feet for the proposed Grocery Outlet (Space 1A); and to permit a total wall sign area of 120.6 square feet for the proposed Planet Fitness (Space 1B) in the Highway Commercial (C-2) District.

Hearing History: The Application was filed in Warwick Township on January 6, 2023. The hearing was held on February 7, 2023 at the Warwick Township Administration Building.

Appearances: Matthew J. McHugh, Esquire  
Klehr Harrison  
10 S. Clinton Street, Suite 300  
Doylestown, PA 18901

Parties: None.

Mailing Date: March 8, 2023

## DECISION

### FINDINGS OF FACT:

1. The Zoning Hearing Board of Warwick Township met the requirements of the Zoning Ordinance, the Municipalities Planning Code, and other relevant statutes as to legal notice of the hearing held.

2. The Applicant is the owner of the Subject Property and is therefore possessed of the requisite standing to make application to this Board.

3. The following exhibits were marked and admitted during the February 7, 2023 hearing:

#### Board Exhibits:

B-1 Application with attachments received by Warwick Township on January 6, 2023

B-2 Proof of Publication from the Intelligencer for advertising notice on January 22, 2023 and January 29, 2021. Public Notice advertising hearing scheduled for February 7, 2023 at 7:00 pm and confirmation from the Intelligencer

B-3 Letter dated January 17, 2023 to Matthew J. McHugh, Esquire from Vicki L. Kushto, Esquire advising of the hearing date

B-4 Resident mailing certification dated January 20, 2023 sent by Kristen Beach, Warwick Township Zoning Officer and copy of list of property owners

B-5 Property Posting Certification by Kristen Beach, Zoning Officer dated January 20, 2023

#### Applicant Exhibits:

None.

4. The Subject Property is located in the C-2 Highway Commercial Zoning District and the Corridor Overlay District. The Subject Property consists of 16.3 acres and currently contains a shopping center.

5. Mr. McHugh provided the following summary of the Application:

The Applicant has owned the shopping center since 2005. Applicant owns over 400 shopping centers and focuses on grocery anchors. The space that is subject to the Application was previously a Giant food store and is currently vacant. The Applicant solicited feedback from the community which indicated that they would like to see a national grocery store in the vacant

space. The Applicant was able to secure a lease with Grocery Outlet but they will only occupy half of the vacant space. Applicant was able to identify Planet Fitness for the other half of the vacant space.

Grocery Outlet and Planet Fitness are both national tenants with a specific brand and sign package. Originally both tenants proposed signs closer to 200 square feet that have now been reduced by almost one-third. This vacant space is set back over 500 feet from the centerline of York Road and is blocked by trees and the bank pad. The Zoning Ordinance only permits 12 square feet for wall signs and that does not provide the notice needed for these stores.

There are two proposed signs for Grocery Outlet, one that says "Grocery Outlet bargain market" which is 99.15 square feet and a second sign that says "Fresh", "Produce", "Meat", and "Organics" that is 32.15 square feet. Planet Fitness proposed one sign that is 120.6 square feet. The proposed signs are similar in size to the signs that were permitted when the vacant space was a Genuardi's and then the Giant, which was 178 square feet. In addition, the new Tractor Supply store has one wall sign that is 125 square feet and one wall sign that is 75 square feet.

The proposed signs are the minimum relief needed for the tenants to succeed.

6. Mr. McHugh then presented the testimony of John Hassan. Mr. Hassan's testimony is summarized as follows:

Mr. Hassan is the Architect who prepared the renderings that were part of the Application. In addition, Mr. Hasan confirmed that the summary provided by Mr. McHugh was consistent with the testimony that he would have provided.

7. Mr. David Sherin is a representative of the Owner and he confirmed that the summary provided by Mr. McHugh was consistent with the testimony that he would have provided.

8. Sandra Hann of 1542 Blueberry Court asked questions about the illumination of the proposed signs, whether they will be higher than the roof of the building and whether any signs would be installed on the side of the building.

9. Mr. McHugh responded that the signs will be illuminated but they will not be higher than the parapet of the building. In addition, there will be no signs on the side of the building only on the front facing York Road.

10. No other members of the public provided public comment.

11. Warwick Township took no position regarding the Application.

### **CONCLUSIONS OF LAW:**

1. Section 910.2 of the Pennsylvania Municipalities Planning Code requires that an applicant demonstrate all of the following in order to be entitled to a variance: (1) there are unique

physical circumstances or conditions peculiar to the Property that impose an unnecessary hardship; (2) because of such unique physical circumstances or conditions, there is no possibility that the Property can be developed in strict conformity with the Zoning Ordinance and that the variance is therefore necessary to enable the reasonable use of the Property; (3) such unnecessary hardship has not been created by applicant; (4) the variance will not alter the essential character of the neighborhood; and (5) the variance represents the minimum variance that will afford relief. (53 P.S. §10910.2).

2. The burden on the applicant seeking a variance is a heavy one, and the reasons for granting the variance must be substantial, serious, and compelling. *Pequea Township v. ZHB of Pequea Township*, 180 A.3d 500 (Pa. Cmwlth. 2018) (citations and internal quotations omitted).

3. The hardship must relate to the property and not the person. *Id.*

4. The use of the Subject Property as a G27 Shopping Center is a permitted use in the C-2 Highway Commercial Zoning District.

5. The credible evidence presented by the Applicant supports the conclusion that the variances are necessary for the reasonable use of the Subject Property.

6. The competent evidence presented by the Applicant and unrebutted leads, the Board to conclude that, should the requested variances be granted, there will be no negative impacts upon surrounding properties or uses.

7. The Board concludes that the evidence presented establishes that the relief sought by the Applicant are the minimum variances necessary.

8. The Board concludes that the granting of the variances will not alter the essential character of the neighborhood or district in which the Subject Property is located.

9. The Board concludes that the Applicant has presented evidence of sufficient factors to warrant the grant of the relief requested.

10. Accordingly, the Warwick Township Zoning Hearing Board determined, unanimously, to grant the Applicant's request for relief.

### **ORDER**

Upon consideration and after the hearing, the Zoning Hearing Board of Warwick Township hereby GRANTS the following variances from the Warwick Township Zoning Ordinance: §195-97B(3)(b)[3] to permit two (2) wall signs for the proposed Grocery Outlet (Space 1A); to permit a total wall sign area of 131.3 square feet for the proposed Grocery Outlet (Space 1A); and to permit a total wall sign area of 120.6 square feet for the proposed Planet Fitness (Space 1B) in the Highway Commercial (C-2) District. The relief contained herein granted is subject to compliance with all other applicable governmental ordinances and regulations, including obtaining the proper permits.

ZONING HEARING BOARD OF  
WARWICK TOWNSHIP

By: Kevin J. Wolf  
Kevin Wolf, Chairman

David Mullen

Lorraine Sciuto-Ballasy  
Lorraine Sciuto-Ballasy

NOTICE TO APPLICANT

You have the right to appeal this Decision to the Court of Common Pleas of Bucks County. Such an appeal must be taken within thirty (30) days of the date the Decision was issued and mailed to you as stated above.