

**IN RE:** : **BEFORE THE ZONING HEARING BOARD**  
: **OF EAST HANOVER TOWNSHIP**  
**APPLICATION FOR SPECIAL** :  
**EXCEPTION OF SHEETZ, INC.** : **HEARING: September 7, 2016**  
: **DECISION: September 7, 2016**  
**No. 2016.03** : **WRITTEN DECISION MAILED:**  
: **October 21, 2016**  
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**DECISION OF THE ZONING HEARING BOARD**

The Zoning Hearing Board of East Hanover Township, Dauphin County, Pennsylvania, conducted a properly advertised and properly posted public hearing on September 7, 2016, commencing at approximately 7:00 p.m., upon the Application for a Special Exception of Sheetz, Inc., with respect to the properties which were the subject of the hearing, being four parcels located on the northeast intersection of Laudermilch Road (Route 743) and Allentown Boulevard (Route 22), to wit: Tax Parcel No. 25-011-019; Tax Parcel Nos. 25-011-065 and 25-011-020 at 9940 Allentown Boulevard, East Hanover Township, Grantville, PA; and Tax Parcel No. 25-011-017 on N. Faith Road, Grantville, PA.

Notice of the hearing was published in *The Sun* on August 18, 2016, and August 25, 2016, in accordance with the requirements of the Pennsylvania Municipalities Planning Code and the East Hanover Township Zoning Ordinance. Additionally, in compliance with Section 603.1.1 of the Zoning Ordinance, written notice of the hearing was conspicuously posted on August 22, 2016, on and about the tracts of land which are the subject of the hearing. Jackie Wilbern, the East Hanover Township Zoning Officer, was present at the hearing and confirmed that the notice was posted. Furthermore, Ms. Wilbern confirmed that she had provided written notice and mailed the notices on August 17, 2016, of the hearing to those property owners

adjacent to the subject properties as identified in the Application for a Special Exception as well as to the Applicant.

Members of the Zoning Hearing Board were JoLynn M. Stoy, Chairperson, Shirley Allison, Member and Kenneth Wolensky, Alternate Member, who were present throughout the hearing. Also present were: Michael Lacesa, Director of Real Estate for the Eastern Region of Sheetz, Inc.; Todd Wilson, of Alpha Consulting Engineers, Inc.; and Brent Brubaker, Permit Manager for Sheetz, Inc.; Ronald M. Lucas, Esquire, of Stevens & Lee, was present and represented Sheetz, Inc. with respect to the presentation of its application. Various members of the public were also present offering testimony and cross-examination of witnesses presented by Applicant. All of the foregoing individuals were duly sworn and offered testimony during the course of the hearing.

### **FINDINGS OF FACT**

The subject properties are contiguous and located at the northeast corner of Laudermilch Road and Allentown Boulevard. All of the four parcels previously identified are located within the Highway Commercial (HC) District with the exception of Tax Parcel No. 25-011-017 adjoining N. Faith Road (hereinafter the "Herr Property"), which is located in the Village Residential (VR) District pursuant to the East Hanover Township Zoning Ordinance. The properties which are the subject of the request for a special exception have a total area of approximately 3.3 acres. Tax Parcel No. 25-011-019, is owned by Cali, LLC, Tax Parcel Nos. 25-011-065 and 25-011-020 are currently owned by GPCCIM, LLC, a sole member entity of Giovanni Cali, who is also the Managing Member of Cali, LLC. A 5,429 square foot portion of

the Herr Property is currently owned by the Estate of John Herr and identified as Tax Parcel No. 25-011-017.

Cali, LLC has entered into an Agreement of Sale to purchase the Herr Property with an intention to consolidate all four parcels into a single lot for development. Applicant, Sheetz, Inc., has entered into a Lease Agreement for the properties, with the landlord, Cali, LLC, and has standing to submit this application for zoning relief.

At the hearing of the matter, Applicant has submitted various exhibits, which have been admitted as part of the record, in support of its Application for a Special Exception including:

- Exhibit 1 Deed to Cali, LLC – Tax Parcel 21-011-019
- Exhibit 2 Deed to GPCCIM, LLC – Tax Parcels 25-011-065 and 25-011-020
- Exhibit 3 Deed to John Herr – Tax Parcel 25-011-017
- Exhibit 4 Agreement of Sale between Estate of John M. Herr to Cali, LLC (redacted)
- Exhibit 5 Amended and Restated Lease with Cali, LLC (redacted)
- Exhibit 6 Dauphin County Tax Assessment Map and Key
- Exhibit 7 Existing Features Plan
- Exhibit 8 Aerial Photograph of surrounding area of Township
- Exhibit 9 Aerial Photograph showing new access drive to Laudermilch Road
- Exhibit 10 Conceptual Plan
- Exhibit 11 Zoning Officer Determination letter dated June 28, 2016
- Exhibit 12 Zoning Applications
- Exhibit 13 Definition of automobile filling station §112.3
- Exhibit 14 Specific Criteria for automobile filling stations §406
- Exhibit 15 General Criteria for special exceptions §604.3.2
- Exhibit 16 Sign Packet
- Exhibit 17 Photographs of surrounding hotel, restaurant, auto and retail uses
- Exhibit 18 Todd Wilson Resume
- Exhibit 19 Letter dated July 14, 2016, and Determination of Jackie Wilbern, Zoning Officer with attachments

Applicant, Sheetz, Inc., is a Pennsylvania corporation with an address of 5700 Sixth Avenue, Altoona, Pennsylvania (hereinafter “Sheetz”). The Applicant is proposing to develop the properties upon consolidation into one tract with a 5,963 square foot Sheetz Store to operate an Automobile Fueling Station and provide for the retail sale of various goods and services. The

Sheetz Store will be open 24 hours a day, seven-days a week and will have approximately eight employees on the premises on its largest shift. Applicant's six (6) pumps will service twelve (12) vehicles including diesel fuel for passenger vehicles. Applicant's Exhibit 10 is a Conceptual Plan identifying the proposed location and nature of the improvements to be made to the property including but not limited to the positioning of the primary store facility, pump stations and parking and access drives as well as other improvements.

Applicant's facility shall accommodate a right turn only from traffic off of Allentown Boulevard as this is a divided roadway. Along the northernmost property line of the tract, Sheetz shall be locating its access drive directly across from Kelley Court. The alignment of this access drive with Kelley Court will allow traffic to both enter and exit Applicant's property onto Laudermilch Road and include the installation of a left turn lane to allow entrance into the facility. Applicant's Exhibit 9 identifies the proposed traffic plan and design that has been arranged in consultation with PennDOT for purposes of obtaining a Highway Occupancy Permit approval.

The Sheetz Store and its fueling pumps with canopy will be essentially located in the central portion of the property. The one story structure shall have a walkway around the entire building consisting of patio type pavers. Tables for patron use shall be located both outside and inside of the store. The store shall have three entrances being along the front, side and rear of the structure.

Parking is designed to be located adjacent to the structure and surrounding its entire perimeter. Additional parking spaces are located to the rear and east of the building as set forth on Applicant's Exhibit No. 10. The design of the premises is to enhance the free flow

circulation of traffic on and off the premises. No curbing shall be installed however lighted safety bollards shall be constructed in front of the parking spaces.

In order to align the northern access drive with Kelley Drive, Sheetz is acquiring 5,429 square feet of the adjoining Herr Property. In exchange an easement will be granted by Sheetz to the Herr Estate for access to the remainder of the Herr properties. This area and access drive will be located approximately forty (40) feet to the north of the existing entrance from Laudermilch Road to the Villa Rosa Restaurant. Along Allentown Boulevard is located a driveway access also to this restaurant. This driveway access will be relocated approximately 100 feet further to the east and as far as the applicable Township Ordinances and PennDOT requirements will allow.

Included within Applicant's improvements to the subject property will be the addition of six (6) business signs. These signs will consist of and be positioned upon the property as follows:

- (1) One Sheetz logo sign, 25.5 square feet in area, placed above the front (south) building entrance facing Allentown Boulevard;
- (2) One Sheetz logo sign, being 25.5 square feet in area, placed above the rear (east) building entrance;
- (3) One Sheetz logo sign, being 35.5 square feet in area, centered on the fuel pump canopy facing Allentown Boulevard;
- (4) One Sheetz logo sign, being 35.5 square feet in area, centered on the fuel pump canopy facing Laudermilch Road;
- (5) One freestanding monument sign located at the Allentown Boulevard and Laudermilch Road intersection, being 15 feet in height and having an area of 65.67 square feet, which shall contain the Sheetz logo and fuel prices; and
- (6) One freestanding informational monument sign, being 38.04 square feet in area, at the northern driveway access entrance on Laudermilch Road, which will contain only fuel prices.

The rear of the building which faces east will have several faux windows. Cars traveling from the east will be able to view the rear of the building and the entrance. Generic graphics and pictures will be placed in these windows to obstruct view of the various equipment and store refrigeration coolers which are located in that area of the building.

Allentown Boulevard is an arterial road with two (2) lanes each eastbound and westbound together with left and right turn lanes at its intersection with Laudermilch Road. The Laudermilch Road corridor connects Hershey Park entertainment area to the south ultimately with the Penn National Race Track and Hollywood Casino to the north of Jonestown Road and Interstate Route 81 accommodating many tourists as well as local traffic. A dedicated left turn lane heading south on Laudermilch Road will be included in the subsequent Land Development Plans to be submitted to the Township for approval. The intersection extending north along Laudermilch Road is subject to a significant rise in topography challenging visibility of the property and signage.

All four corners of the Allentown Boulevard and Laudermilch Road intersection are located in a HC District. A variety of business operations are located within this neighborhood including but not limited to Mainstay Inn, Villa Rosa Restaurant, Farmstead Farmers Market, Fabe's Corner Car and Truck Sales, Days Inn, Hampton Inn, Shell Gas Station, Kline Brothers Metal Fabrication and other businesses all of which have an assortment of freestanding, monument and/or building mounted signage whether lighted or unlighted.

Lighting upon the subject property shall be primarily LED and the majority of it will be recessed within the fuel pump canopy as well as directed downward. Safety bollards being three feet in height will be installed about the perimeter of the building between the walkways and

parking spaces. The bollards will be lighted which shall be directed downward. Additional lighting around the perimeter of the property will be directed inward and down as well.

Located to the north of the subject property is the Faith United Church of Christ which operates a part-time nursery school. A Determination of the East Hanover Township's Zoning Officer was issued July 14, 2016, finding that the nursery school operated by the church three days per week was an accessory use to the principal use of the structure and facility and not subject to Section 406.4 setback requirements.

No public water is available to the subject property and area in which it is located. Water service for the property will be provided by a new private well which shall be installed, tested and operated in accordance with all applicable DEP permitting, Commonwealth and other Township requirements. The existing well on the property will be capped. The property will be connected to public sewer and a grinder pump installed.

Applicant shall be providing fifty-two (52) parking spaces on the property. Fuel is delivered by tractor trailers as needed and dependent upon the volume of sales. Wide aisles and driving lanes are designed and incorporated into the improvements to accommodate adequate truck turning movements and safety and convenient access for passenger vehicles on and about the premises.

An enclosed dumpster area, to be constructed of the same brick material as the main building, will include the storage of hazard materials that are required for spills and otherwise in the operation of the fueling station. A commercial hauler will be engaged for regular trash removal.

Three 8,000 gallon underground storage tanks are to be located to the west of the proposed fuel pumps and at a distance in excess of 100 feet from residential zoned property

located to the north. Upon construction of all improvements, Applicant shall have a total lot coverage of 49.4%. Visual screening consisting of a mix of evergreens, deciduous trees and shrubs will be installed along the northern property line to provide a dense buffer to the adjoining residential and other properties.

### **DISCUSSION AND CONCLUSIONS**

Applicant proposes to redevelop the subject property from its current use of a restaurant to construct a Sheetz Store for the retail sale of goods, services and various food products. Such use is permitted by right in an HC District pursuant to Section 210.2(6) of the Zoning Ordinance. As a result of a prior Sheetz request for a Determination of the Zoning Officer, the store operations shall also include services and goods for an Automobile Fueling Station pursuant to Section 112.C of the Zoning Ordinance determined to be a use permitted by special exception in the HC District as set forth in Section 210.3.2 of the Zoning Ordinance. In order to grant a special exception for the use proposed, Applicant must demonstrate compliance with the general requirements of Section 604.3(2) as well as the specific requirements of Section 406 of the Zoning Ordinance. Upon consideration of all testimony and evidence presented, the Board is persuaded that such requirements are satisfied.

It is uncontested that the subject property is zoned for Highway Commercial uses. As defined by Section 112.C of the Zoning Ordinance, an Automobile Fueling Station is any land and structures used for the sale of gasoline, other motor vehicle fuels, oil and other lubricating substances, including retail sales of motor vehicle accessories. Sheetz will be providing such sales and services only and not including any major vehicle repairs, body or fender work, painting, vehicle sales or rentals, or a car wash facility. The Board is persuaded that Applicant's



Automobile Fueling Station use and development of the property as proposed will satisfy the requirements of Section 112.C.

The Board is further persuaded that the proposed use meets the specific requirements of Section 406 of the Zoning Ordinance. The subject property has a lot width of 372.5 and 426.73 feet respectively along two arterial or collector roads being Laudermilch Road and Allentown Boulevard in compliance with Sections 406.2 and 406.3 of the Ordinance. No schools, day-cares, playgrounds, libraries, hospital or nursing, rest or retirement homes, are located within 300 feet of the property as required by Section 406.4. Furthermore, no outdoor storage of any motor vehicles shall occur on the premises as directed by Section 406.5.

Applicant's plans and drawings also confirm that all structures (except permitted signs) will be set back greater than thirty (30) feet from the street right-of-way lines and there will be no outdoor storage of any auto parts all as required by Sections 406.6 and 406.7. The access drives are not located along the same road frontage and each shall have a width no less than twenty-eight (28) feet nor greater than thirty-five (35) feet as specified in Section 406.8. All ventilation equipment related to fuel storage shall be located to the west of the proposed store and fuel pumps as well as at a distance greater than 100 feet from the residentially zoned (VR) property to the north. The storage and disposal of materials will be compliant with federal and state requirements for the operation of a fueling station as required by Section 406.9 and 406.10.

Upon enactment of the current Zoning Ordinance, Automobile Fueling Stations have already been determined to be uses consistent with the purposes and intent of that Zoning Ordinance if they are compliant with Section 406. The proposed Sheetz Store is compliant with Section 406 and the Board therefore is persuaded the store will be consistent with the purposes and intent of the Zoning Ordinance.

The area where the property is located has been developed commercially with a variety of business uses. The proposed use is compatible and will provide services complimentary to and consistent with those commercial uses and the public traffic that is generated at and along Allentown Boulevard and Laudermilch Road. A fifty (50) foot buffer shall also be provided between the proposed store and adjoining VR District with respect to existing residential uses. The Board is persuaded therefore that the Automobile Fueling Station will not detract from the use and enjoyment of adjoining or nearby properties.

The Board finds that adequate public facilities to service the use are available. The properties shall be connected to public sewer and have an on-site well for water supply. Public fire, police and ambulance services are also provided in the Township and can be extended to this property. Although there would be changes to the property, viable access exists to two state roads which access will be subject to PennDOT approval and as well as Land Development Plan approval by East Hanover Township.

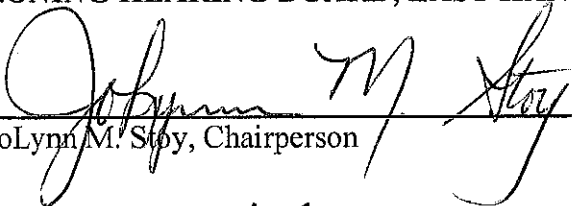
The subject property is not located in a Flood Overlay Zone. In addition the Board is persuaded the proposed use is also compliant with the remaining specifications of Section 210 of the Zoning Ordinance as set forth and described on the plans and drawings submitted as part of the record before the Board. As a result of all of the foregoing, Applicant's proposed use as presented shall be consistent with the Township Comprehensive Plan for continued commercial growth and development.

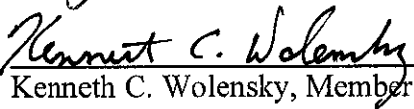
### **DECISION**

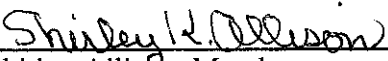
For all the reasons previously set forth, evidence and testimony presented, the East Hanover Township Zoning Hearing Board does hereby GRANT Applicant's request for a special

exception to operate an Automobile Fueling Station with six (6) pumps as part of a Sheetz Store for the retail sale of goods and services upon the subject property in an HC District in accordance with all specifications and drawings as set forth in the Application and made a part of the record before the Board.

**ZONING HEARING BOARD, EAST HANOVER TOWNSHIP**

  
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JoLynn M. Stoy, Chairperson

  
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Kenneth C. Wolensky, Member

  
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Shirley Allison, Member

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