



Zoning Hearing Board Meeting Minutes
May 21, 2025

Chairman Jane Ginter called the meeting to order at 7:00 PM. Members present: Jonathan Reynolds, Gina Myers, James Turnure, Robert Mann, and alternate Richard Pope. Also present were Zoning Officer John McLucas, Code Enforcement Officer Garry Waltersdorff, Solicitor Mike Craley, Attorney Samantha Craley, Stenographer Tammy Rinehart, Recording Secretary Tina Wagner, and approximately fourteen citizens.

I. Zoning Hearing Cases

- a. Reconvened- ZHB 25-2 – 4750 W. Canal Road – Agricultural District
 - i. Application by Mid-Atlantic Cooperative Solutions, Inc. t/a Aero Energy of 230 Lincolnway East, New Oxford, seeking a Use Variance of § 27-401, for the property located at 4750 W. Canal Road to permit a propane filling facility.

Code Enforcement Officer Garry Waltersdorff filled in for Zoning Officer John McLucas, who recused himself from this case.

Chris Naylor of Barley Snyder, representing Mid-Atlantic Cooperative Solutions trading as Aero Energy, located at 230 Lincolnway East, New Oxford, along with Larry Marshall, President/CEO of Aero Energy, presented the Zoning Hearing Board members with the additional evidence that was requested regarding the vegetative screening, fencing details, lighting placement, concrete footing inspection details for the existing tank, and a site plan showing the proposed entrance and turnaround points.

Testimony was given that the vegetative screening will involve removing some vegetation to install gravel entrance and turnaround points, thus avoiding backing out onto Canal Road. They aim to keep the removal to a minimum to maintain as much privacy from the public as possible. The lighting will include one existing pole light that shines downward onto the tank, and they will add another pole light on the property. The height of the light pole is estimated to be ten feet, which will also shine downward to avoid disturbing neighboring properties. The fencing will consist of the existing six-foot-high chain-link fence on the sides and rear of the property, along with an eight-foot-high chain-link fence in front. Additionally, they will install green blade slats to enhance the screening. A masonry contractor has inspected the existing concrete piers, which show no structural cracks, fine cracks, or undermining damage to their bases.



Zoning Hearing Board Meeting Minutes
May 21, 2025

Heather Rauls of West Canal Road presented the board members with §27-1003 from the Dover Township ordinances, sourced from the Dover Township website, and provided testimony explaining why she believes the requirements have not been met. She stated that the lot in question is neither irregular, narrow, nor shallow. An aerial photograph indicates that the property is rectangular, approximately one acre in size, with a creek on its far west side. There are no exceptional topographical conditions unique to this property. Additionally, the existing propane tanks, vehicles, carports, and other structures do not create an exceptional physical condition for the property; all items are relatively easy to remove as they are not permanently affixed. Furthermore, the unnecessary hardship of being unable to develop the property according to strict zoning requirements arises from the zoning district's minimum lot size of 1.5 acres for a single-family dwelling. This 1-acre lot presumably existed when the current zoning ordinance was enacted. The property cannot be developed in strict compliance with the provisions of this Chapter because it is only one acre. However, authorizing this variance is NOT necessary to enable reasonable use of the property. The reasonable use would be to permit the erection of a single-family residence, which would only require a dimensional variance, not a use variance. Moreover, the propane tanks were installed by the previous owner, who has since passed away. The hardship must be unique to the property and not self-imposed by either the current or previous owner. The zoning board shall not consider the actions of a prior owner when determining whether to grant a variance. Having a bulk propane filling facility in this agricultural zone would definitely alter the neighborhood's essential character. The propane filling station that previously operated at the property was a nonconforming use abandoned over 15 years ago. Therefore, the property should be properly cleaned up and utilized in accordance with current zoning regulations. A use variance should never be granted solely for the purpose of cleaning up a property. Section 910.2 of the Municipalities Planning Code does not state that a variance should be issued simply to rectify a property due to a prior owner's neglect.

Allowing a use variance for a bulk propane facility will increase truck traffic on Canal Rd, which is already high. It will also create additional noise due to large trucks pulling into the one-acre site to refill the bulk tank and distribute propane to customers. A bulk propane filling facility belongs in an industrial zone, not in



Zoning Hearing Board Meeting Minutes
May 21, 2025

an agricultural zone. A variance permitting a commercial bulk propane filling facility in an agricultural zone is certainly NOT the minimum variance. It also does NOT represent the least modification possible of the regulation in question. The fact that there would be no physical changes to the property as it currently exists does not align with the requirements. The minimum variance refers to the slightest deviation from the zoning ordinances, not from the current state of the property. The minimum variance for this property would be to allow a single-family residence to be built on the 1-acre lot. The lot size cannot be changed as it preexisted when the zoning ordinance was enacted. To allow for the reasonable use of the property, a single-family residence would not require modification of the regulation in question, as it is already an allowable use under agricultural zoning. It would only require a dimensional variance.

The speed limit on that stretch of road is currently 40 miles per hour.

Attorney Naylor stated that the case tonight was to present additional evidence; the oral testimony offered was not an expert opinion, but rather a layperson's opinion on the legal standard. The property, by definition, is in fact unique; the tank is a fixture on the land and should be considered unique. The testimony of speeding traffic is irrelevant to this case. The testimony is of no expert opinion and should be irrelevant. The applicant has met all applicable legal standards.

Members of the Zoning Hearing Board entered deliberation at 7:33 p.m.

The hearing was reconvened at 7:58 pm.

Motion by Reynolds, seconded by Turner, to approve the variance request as presented to permit a propane filling facility. All voted aye, motion carried.

- b. ZHB 25-3 – 2531B Conewago Road- Agricultural District
 - i. Application by Thiessen LLC, of 6770 Harmony Grove Road, Dover, requesting a Special Exception approval of § 27-401 and § 27-642, for the property located at 2531B Conewago Road, Dover, to permit an Intensive Agricultural Operation.

Present on behalf of the applicant and Theissen LLC were John Williamson, representing Team Ag, based in Ephrata, and Martin Thiessen, owner and



Zoning Hearing Board Meeting Minutes
May 21, 2025

operator of Thiessen LLC. He is also speaking on behalf of his partner, Daniel Pike, whose property is D&D Bismark, a partnership between Daniel and David Pike.

The applicant proposes to renovate the barn's interior to create a more bird-friendly environment. Their integrators are Pete and Gerry's Certified Humane® Free Range, a very bird-friendly animal welfare company. This renovation will increase the current operation from 18,000 to 38,000 layers, classifying it as an Intensive Agricultural Operation in Dover Township. They will implement a manure management program that meets all DEP Chapter 91 standards. A volunteer odor management plan will also be prepared by Team Ag in accordance with Act 38 of the PA Nutrient Management Act regulations. The existing barn is located approximately 84 feet from the closest property line to David W. Pike, while the proposed manure storage barn will be 100 feet from the property line. The barn housing layers will remain the same size. Team Ag will prepare a site plan that complies with the requirements of Dover Township and the state regarding stormwater, erosion, and sediment control. The proposed use is expected to result in an insignificant increase in traffic. Every five months, hens will be delivered by four trucks instead of the current two. Egg pick-up will change from every three weeks to every ten days. Manure from the layer hens will be spread around farms once a year, around March, in thirty loads, which will increase to sixty loads being removed. They believe they have met the specific standards of §27-642.

No odor management is necessary given the facility's size; however, they are voluntarily implementing one. The odor will not exhibit any significant change. The mortality rate is extremely low; when death occurs, the birds are composted. Disease is not a concern, and the risk will not increase with the larger population. Security measures are in place; if disease does occur, the procedures set by the state must be followed before being allowed to operate again.

Barns will have doors to allow birds outside, but it's uncommon for them to do so because of predators. The barn is under camera surveillance and has security alarms. Additionally, the barn features a tunnel system for air circulation.



Zoning Hearing Board Meeting Minutes
May 21, 2025

The facility will undergo an annual audit. Before new birds arrive, a crew must clean the barn according to the guidelines set by Pete and Gerry's.

Chairperson Ginter read the Planning Commission's Recommendation, *Motion by Bigham, seconded by Love, for the Zoning Hearing Board to look favorably upon the application by Thiessen LLC for a special exception for an intensive agricultural operation located at 2531B Conewago Road, in the Agriculture District. All members voted aye; the motion carried.*"

Motion by Turnure, seconded by Reynolds, to approve as presented the request for a special exception of §27-401 and §27-642, for the property located at 2531B Conewago Road, Dover, to permit an Intensive Agricultural Operation with the following conditions; final presentation of the Nutrient Management Plan and the Odor Management Plan, and that the fencing complies with the Dover Township zoning ordinance. All voted aye, motion carried.

II. Other Business

No other business

III. Adjournment

Chairperson Ginter adjourned the meeting at 9:06 pm. **Motion** by Turnure, seconded by Reynolds. All members voted aye; motion carried.

Respectfully Submitted by,

Tina Wagner
Recording Secretary