

**DECISION OF THE ZONING HEARING BOARD OF  
MUHLENBERG TOWNSHIP, BERKS COUNTY, PENNSYLVANIA**

**In Re: Application of Amazon.Com Services, LLC for a variance pursuant to §§ 355.115(B) and 355-25(E) Attachment 9 of the Muhlenberg Township Zoning Ordinance of 2004, as amended, for the property located at 1002 Patriot Parkway, in Muhlenberg Township, Berks County, Pennsylvania, bearing Property Identification No. 66530814245469.**

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

The Zoning Hearing Board of the Township of Muhlenberg (hereinafter referred to as the “Board”) finds as follows:

**FINDINGS OF FACT**

1. The property, which is the subject of this land use application, is located at 1002 Patriot Parkway in Muhlenberg Township, Berks County, Pennsylvania, and bearing Property Identification No. 66530814245469 (hereinafter referred to as the “Subject Property”).
2. The Applicant is Amazon.Com Services, LLC of 410 Terry Avenue North, Seattle, Washington, 98109 (hereinafter referred to as the “Applicant”).
3. The Owner of the Subject Property is Matrix 1002 Patriot, LP of Forsgate Drive CN4000, Cranbury, NJ 08512 (hereinafter referred to as the “Owner”).
4. The Applicant is the lessee pursuant to a lease between the Owner and Applicant giving the Applicant an equitable interest in the Subject Property.
5. The Subject Property is located in an area zoned “I-1” – Limited Industrial District pursuant to the Muhlenberg Township Zoning Ordinance of 2004, as amended (hereinafter referred to as the “Zoning Ordinance”) and the Muhlenberg Township Zoning Map.
6. Public notice of the hearing for September 2, 2020, was timely advertised in the Reading Eagle, a newspaper of general circulation within Muhlenberg Township, on August 19,

2020 and August 26, 2020; adjacent property owners were notified of the hearing by mail on August 18, 2020 and the Subject Property was posted with notice of the hearing on August 18, 2020.

7. The Subject Property is approximately 37.91 acres in total size. There is a 609,000 square foot existing industrial building with associated parking and site improvements.

8. The Applicant proposes to occupy the existing building for a warehouse center. Essentially, the Subject Property will be used to receive inventory from vendors for repackaging and shipping to another facility for further distribution to customers.

9. The Applicant anticipates have 336 employees working per shift in multiple shifts daily at the Subject Property.

10. The Applicant proposes to provide a total of 418 total parking spaces for motor vehicles, 109 trailer parking spaces, and 57 loading dock spaces.

11. In order to develop the Subject Property, the Applicant proposes to provide parking spaces for motor vehicles that will be nine feet by eighteen feet (9' x 18') rather than ten feet by twenty feet (10' x 20') as required by the Zoning Ordinance.

12. The parking for motor vehicles will be used almost exclusively for employees and visitors and will be located on the west side of the Subject Property.

13. The trailer parking spaces and loading spaces will be located on the east side of the Subject Property.

14. In order to provide for the safe movement of trucks throughout the Subject Property and to have sufficient parking for employees, the Applicant is proposing slight alterations to the property that will result in a minor increase in the in the impervious coverage.

15. As a result, the Applicant is proposing to have lot coverage of 71.4% which exceeds the authorized coverage provided for in the Zoning Ordinance of 60%. The current lot coverage is 70.7%.

16. The proposed increase in lot coverage is intended to allow the Applicant to widen driveways and curb locations to ensure smoother turn movements for tractor trailers.

17. Other than the minor changes described heretofore, the Applicant has not proposed to change any other existing conditions at the Subject Property.

18. By memorandum dated August 27, 2020, the Township Planning commission indicated its support for the Applicant's requested relief and noted there are a number of existing nonconformities on the Subject Property as a result of prior land development approvals.

### **DISCUSSION**

After careful and thoughtful consideration, the Zoning Hearing Board finds the Applicant meets the requirements of the Zoning Ordinance for obtaining a variance and therefore the Board grants the relief requested.

The Board has legislatively been granted jurisdiction to hear applications for variances. 53 P.S. § 10909.1 (a)(5). The standards that the Board must follow are set forth in the Municipalities Planning Code, the Zoning Ordinance and related case law. The Zoning Ordinance specifically sets forth the standards that must be met to obtain a variance. In order to grant a variance, the Zoning Hearing Board must find the evidence supports each of the following standards:

(1) That there are unique physical circumstances or conditions, including irregularity, narrowness or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such condition, and not circumstances or

conditions generally created by the provisions of this Chapter in the neighborhood or district in which the property is located.

(2) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this Chapter and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

(3) That such unnecessary hardship has not been created by the Appellant.

(4) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.

(5) That the variance as granted by the Zoning Hearing Board is the minimum variance that will afford relief and will represent the least modification possible of the regulation at issue.

Section 355-140 of the Zoning Ordinance. The Board finds the Applicant meets these standards.

At the outset of the hearing, however, the Applicant sought clarification on some concerns expressed by Township officials that variances may be needed from §§355-78 and 355-115 of the Zoning Ordinance. The Applicant contends the issues relating to these provisions actually emanate from existing nonconformities that the Applicant does not intend to alter in anyway. Accordingly, the Applicant contends no relief is required. Upon review, the Board agrees with the Applicant that, because these are existing nonconformities that are not being altered, no relief is necessary. Nonetheless, if it had determined that relief was necessary, the Board would have granted that relief.

In conclusion, the Applicant's proposed changes are modest and will enhance the Subject Property. Therefore, the Board will grant the requested relief.

## CONCLUSIONS OF LAW

1. The Zoning Hearing Board of Muhlenberg Township has jurisdiction to decide this land use application pursuant to the Muhlenberg Township Zoning Ordinance of 2004, as amended, and the Pennsylvania Municipalities Planning Code of 1968, P.L. 805, No. 246 as reenacted and amended, 53 Pa.C.S.A. §10901.1, *et seq.*

2. Pursuant to the Zoning Ordinance, the Board shall hear and decide requests for variances filed with the Board in writing, as provided for in the Zoning Ordinance and in accordance with all standards and criteria contained in the Zoning Ordinance.

3. The Applicant has met, or will meet, all of the requirements of §355-140 of the Zoning Ordinance for granting of variances.

4. Accordingly, the Applicant's requests for variances are hereby granted.

## ORDER

AND NOW, the Muhlenberg Township Zoning Hearing Board, by unanimous vote of the quorum, hereby rules as follows:

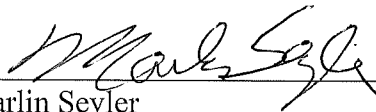
1. The Applicant's request for a variance from §355-115(B) to construct parking spaces with dimensions of no less than nine feet by eighteen feet (9' x 18') and an area of no less than one hundred sixty-two square feet (162 sf) is GRANTED.
2. The Applicant's request for a variance from §355-25(E), Attachment 9 to allow the Subject Property to be developed with lot coverage not to exceed 71.4% is GRANTED.

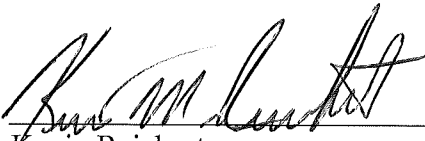
No zoning or occupancy permit shall be issued by the Township Zoning Officer unless all terms and conditions as set forth in this Decision are complied with and upon subsequent noncompliance, any said issued permit shall be immediately revoked.

Further, these approvals shall be valid and remain in effect for a term of one (1) year from the date of this Decision and shall thereafter expire and be void, unless said construction or modification be initiated within said one (1) year term.

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Muhlenberg Township Zoning Hearing Board:

By:   
Marlin Seyler

By:   
Kevin Reichert

By:   
Robin Royer

Date of Issuance of Written Decision: 9-4-2020

**ANY AGGREIVED PERSON MAY APPEAL THIS DECISION TO THE COURT OF COMMON PLEAS OF BERKS COUNTY, PENNSYLVANIA, WITHIN THIRTY (30) DAYS FROM THE DATE OF THE ISSUANCE OF THIS WRITTEN DECISION.**