

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

IN RE: APPLICATION OF TOWER HEALTH SEEKING A VARIANCE FROM SECTION 516 OF THE SOUTHWESTERN BERKS COUNTY ZONING ORDINANCE OF 2004 TO PERMIT THE CONSTRUCTION OF SIGNS ON PROPERTY LOCATED AT 4860 PENN AVENUE, SOUTH HEIDELBERG TOWNSHIP, WHICH IS LOCATED WITHIN AN C-2 GENERAL COMMERCIAL ZONING DISTRICT.

FINDINGS OF FACT, CONCLUSIONS AND ORDER

The Zoning Hearing Board of the Township of South Heidelberg (the "Board") finds as follows:

A. FINDINGS OF FACT

1. Applicant is Tower Health with an address of 420 S. 5th Avenue, West Reading, Pennsylvania 19610 (hereafter the "Applicant").
2. The property which is the subject of the within Application is located at and commonly known as 4860 Penn Avenue, South Heidelberg Township, Berks County, Pennsylvania (hereafter the "Property").
3. The Property is owned by Sonia Yashica Estates, LLC.
4. The Property is located in the C-2 General Commercial Zoning District subject to the terms of the Southwestern Berks County Zoning Ordinance of 2004, as amended (hereafter the "Ordinance").
5. On or about February 14, 2020, the Applicants filed an application that was replaced by a subsequent application filed on February 28, 2020 (hereafter the "Application") with the Zoning Hearing Board of South Heidelberg Township (hereafter the "Board"). The Application was dated February 6, 2020, and included a request for a variance from Section 516 of the Ordinance to allow the construction of a sign larger than twenty-five (25') square feet in size on the front and side of the building (hereafter "Building") located on the Property.
6. The hearing was scheduled to be held on March 30, 2020. Due to the Governor's Order relating to covid-19, the hearing was continued until April 20, 2020, and continued again to May 18, 2020.

7. A notice of hearing to be held on May 18, 2020, was duly advertised in the Reading Eagle on May 4, 2020 and May 11, 2020, setting the hearing date, place and time for the hearing on the Application as May 18, 2020 at 6:00 p.m., prevailing time, at the South Heidelberg Township (hereafter the "Township") Municipal Building, 555A Mountain Home Road, Sinking Spring, South Heidelberg Township, Pennsylvania 19608.

8. The Property was duly posted and notice of the hearing was sent to the Applicants, the adjoining land owners and all other individuals and entities required by law, ordinance and Board rule.

9. The hearing on the Application was held on May 18, 2020 at 6:00 p.m. (hereafter the "Hearing"), at the South Heidelberg Township Municipal Building, at which time the Board met, heard oral testimony, deliberated and voted in open session to announce its decision to be followed by the within written Decision.

10. During the Hearing the Applicant was represented by counsel; Steven Buck, Esquire, Steven & Lee, 111 N. 6th Street, Reading, Pennsylvania.

11. Mark McNash and Chris Heinly were duly sworn and testified on behalf of the Applicant.

12. No other individual testified in support of the Application or in opposition to the Application.

13. Adjacent landowner Quin E. Jones, 36 Krick Lane, Sinking Spring, Berks County, appeared at, and participated during, the Hearing.

14. No individual appeared at the Hearing and requested party status in order to oppose or support the Application.

15. A stenographic record of the Hearing was made.

16. At the outset of the Hearing, the Board introduced the following exhibits into the record:

- a. Applications – collectively Exhibit "B-1".
- b. Affidavits of publication – collectively Exhibit "B-2".
- c. Certificates of posting – collectively Exhibit "B-3".
- d. Certificates of mailing – collectively Exhibit "B-4"
- e. The Ordinance and Zoning Map were not physically marked but were made part of the record.

17. During the course of the hearing, the following exhibits were admitted into the record:

- a. Depiction of signage per Section 516 – Exhibit “A-1”.
- b. Depiction of proposed front sign, close view – Exhibit “A-2”.
- c. Depiction of proposed front sign, view from distance – Exhibit “A-3”.
- d. Depiction of proposed side sign, view from distance – Exhibit “A-4”.
- e. Photos of other signs – Exhibit “A-5”.

18. Mark McNash was sworn and testified in support of the Application as follows:

- a. He is a senior vice-president with Tower Health;
- b. His duties included managing real property and preparing real property for use by Applicant;
- c. The proposed signage would include “Tower Health” with blue lettering and Tower Health’s logo in blue;
- d. The proposed sign would include “Urgent Care” with a red background white letters;
- e. Applicant has utilized similar signage at other locations;
- f. Applicant will be open seven (7) days per week at the Property; and
- e. Applicant’s hours of operation at the Property will most likely be 8 am – 8 pm.

19. Chris Heinly was sworn and testified in support of the Application as follows:

- a. He is employed by L & H Signs;
- b. L & H Signs prepared the proposed signage for Tower Health and would construct the signage;
- c. His primary duties include building signs for medical providers;
- d. L & H Signs has constructed signs in approximately thirty (30) states;
- e. Section 513 b. limits signs to twenty-five (25’) square feet in size;
- f. The Property may be described as a strip mall;
- g. The proposed signage is consistent with other signs located at the Property;
- h. The proposed signs include the words “Tower Health” in blue during the day and transitioning to white in the dark;
- i. The proposed signs include the words “Urgent Care” in white letters on a

red background;

j. In his experience drivers make poor driving decisions when the driver does not know where he/she is going. Conversely drivers make better driving decisions when the driver sees a sign and then knows where he/she is going;

k. The sooner that drivers entering the Property see the proposed sign, the sooner he/she will make good driving decisions;

l. Drivers involved in urgent medical situations may make poor driving decisions until the driver finds signage directing him/her to appropriate location;

m. Other signs at the Property, and in the area, are larger than twenty-five (25) square feet in size;

n. A larger sign is required on the front of the Building because the Building is set back from 422;

o. A larger sign is required on the side of the Building because the side of the Building is slightly elevated from the street and is partially blocked by an Arby's restaurant;

p. The Applicant will have a sign on the permanent sign at the front of the Property. The permanent sign contains signs for the businesses located at the Property;

q. The proposed signs: are approximately one hundred twelve (112') square feet; are the same design Applicant uses for other facilities; will not have any flashing lights; and will not be as bright as the parking lot lights on the Property;

r. The proposed signs will not alter the essential character of the neighborhood where the Property is located or substantially impair the appropriate use of the adjacent properties; and

s. The variance requested is the least necessary to afford relief and avoid unnecessary hardship.

B. CONCLUSIONS

Pursuant to the provisions of Sections 909.1, 910.2 and 912.1, 53 P.S. § 910.2 and 53 P.S. § 912.1, of the Pennsylvania Municipalities Planning Code (the "MPC"), Section 902 of the Southwestern Berks County Zoning Ordinance of 2004, as amended, the Board makes the following conclusions with respect to the Applicant's requested relief:

1. The requested variance will not alter the essential character of the neighborhood or impair the appropriate use or development of adjacent properties nor be detrimental to the

public welfare.

2. The variance sought is the minimum needed that will offer relief and will represent the least modification possible of the subject regulations in issue.

3. The variance sought is a type within the province of the Board to grant or deny

C. ORDER

The Zoning Hearing Board of South Heidelberg Township, pursuant to the authority vested in it under the Ordinance and the Pennsylvania Municipalities Planning Code, as both have been amended, based upon the foregoing Findings of Fact and Conclusions of Law, makes the following Order:

1. The Application for a variance from Section 516 b. of the Ordinance is hereby granted subject to the following conditions:

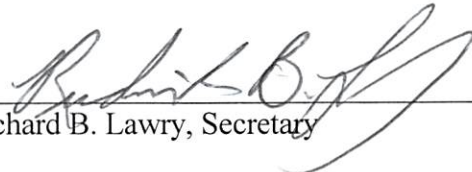
a. Applicant may construct signs on the front and side of the Building as requested within the Application; and, the signs will not have flashing lights.

b. The Board is only granting relief from the Ordinance as requested within the Application.

c. Applicant shall strictly comply with all applicable rules, regulations and Ordinances of the Township of South Heidelberg including, but not limited to, those pertaining to building permits.

ZONING HEARING BOARD OF
SOUTH HEIDELBERG TOWNSHIP:

Date: June 18, 2020

By: 
Richard B. Lawry, Secretary

AND NOW, JUNE 18,, 2020, I, SEAN A. MCKEE, TOWNSHIP MGR
on behalf of the Zoning Hearing Board of South Heidelberg Township, do hereby certify that I have this date, personally delivered or mailed, postage prepaid, a copy of the above Decision to the above-named Applicants.

