

MINUTES
BOARD OF ZONING APPEALS
CASE A-235

Mrs. Vickie Watts, Chair of the Board, called the hearing to order at 7:00 p.m. The following Board Members were present: Mrs. Vickie Watts, Mr. Michael Joseck, and Ms. Tracy McCoy. Staff members present were: Town Manager/Zoning Administrator Jim Roark, Town Attorney Michelle Ostrander, Assistant Zoning Administrator Elizabeth Dietrich, and Chief of Police David Snyder. Marlene Duff, Alternate Board Member, was also present.

Guests present: Joeseph Danko, John Lyons, Kevin Elden, Alex Ororbia, Bill Swanick, and Mohsan Khatana

CASE A-235

On June 12, 2024, the Board of Zoning Appeals heard testimony and received evidence concerning Case A-235, a request by Weis Markets, Inc. c/o Alex Ororbia for a Conditional Use for a fueling service station at 721 Hanover Pike in the General Business zoning district.

Roll Call was completed, and Mrs. Watts presented the case. Mr. Roark read the Written Record stating that the original hearing was scheduled for May 2, 2024, but was rescheduled at the last minute due to a pressing personal issue on behalf of one of the Board Members. The hearing was rescheduled for June 12, 2024. A public notice of the hearing was published in the Carroll County Times on two consecutive weeks along with notification letters being sent to all adjoining properties. The property was posted with a notice sign per Code requirements. No comments were received by the Town Office regarding the application. Mr. Roark concluded the Written Record.

Mr. Roark read the Zoning Administrator's Statement: Hampstead Town Code §135-123 J. states that "Service stations and service garages, if located at least 300 feet from the boundary line of any residence district" are a conditional use requiring Board of Zoning Appeals authorization. The proposed property is approximately 450 feet from the closest residential district boundary line. The proposal is to construct a Weis Gas N' Go within a vacant/undeveloped portion of the Robert's Field Shopping Center between MD Route 30 and the existing parking field next to the Farmers & Merchants Bank. Access to the Gas N' Go will be from the existing access drives serving the parking field. The facility will include six (6) separate pumps which provide a total of eight (8) fueling positions, will be manned by one full-time employee. The fueling service station will have the same business hours as the Weis Market grocery store. Parking will be provided for the attendant, and there will be a parking space for the air pump. There will be one employee-only bathroom in the attendant kiosk that will be served by existing Town water and County sewer utility mains. If the Board of Zoning Appeals grants this conditional use for a service station then the site plan is required to be reviewed and approved by the Hampstead Planning and Zoning Commission. There is nothing in the Town Code to prohibit this conditional use, and it was the recommendation of the Zoning Administrator and the Assistant Zoning Administrator to defer to the Board's judgment for the case decision.

Mr. Bill Swanick, with engineering firm HRG, began the Applicant's Presentation. Mr. Swanick explained to the Board that Mr. Alex Ororbia from Weis Markets, Inc. and Attorney Kevin Elden with Elden Law & Advisors were present at the hearing on behalf of Weis Markets, Inc. Mr. Swanick shared the site plan drawings with the Board. He explained the location of the proposed gas pumps and the employee kiosk. He stated that there was an error in his cover letter for the application regarding the number of proposed pumps- There are five pumps proposed not six as stated in the cover letter. There will be eight positions for fueling. Access to the facility will be from the existing parking area, they are not proposing any new access to any state or local roads. They will be creating one parking spot for the attendant. Mr. Swanick stated that the 300-foot buffer from the residentially zoned properties only comes about halfway through the parking lot

area. There will be a triangular stormwater management basin on the parking lot side of the development area. Utilities, water, sewer were discussed. The facility would tie into existing lines, and use 10 to 20 gallons of water usage per day. There will be a fiber optic line tying the fueling station to the store. The facility will be open during business hours of the store and will be manned by one employee when open. There will be an employee-only restroom. There will be enough space for tractor trailer truck access for delivering fuel. Mr. Swanick concluded his presentation.

The Board accepted the Applicant's site plan as Exhibit #1 for the official record.

The Board asked questions of the Applicant. Ms. McCoy asked the Applicant to confirm the hours of the gas station, and Mr. Swanick confirmed that the hours will match the store hours. Security lighting would be present at the location when the station is closed. Mr. Alex Ororbia then spoke on behalf of Weis Markets stating that the gas station will link to the store electronically, and the gas station gas purchases will be processed like groceries purchases are processed. Mrs. Watts asked about whether there would other items to purchase at the employee kiosk, and Mr. Ororbia said there will be some sundry items like windshield washer fluid, oil, chewing gum, cigarettes, etc. Mrs. Watts asked the Applicant if access would be through the parking lot around back behind McDonald's and Mr. Swanick confirmed that was correct, there would be no new entrances created. Mr. Joseck asked if the facility would be able to service large trucks like 18-wheelers, and Mr. Swanick said that it was primarily for cars. Ms. McCoy asked what else was in the shopping center, and Mr. Roark said C&R Pub, Pipe the Side, Cinco de Mayo, Domingo's Paws grooming, as well as a nail salon. The Pizza Hut is now closed.

Mrs. Watts invited any Public Comment from anyone not supporting the application. Mohsan Khatana from the Exxon gas station spoke in opposition. He presented a petition which was put together by him and the Jiffy Mart owner. Mr. Khatana requested that the application be denied and said that there are already four gas stations in and around Hampstead. The reasons he gave were the following- another gas station can impact the neighborhood residents due to increased fire-explosion danger, noise, loss of property value, groundwater or aquatic resource impacts, or cause traffic issues. The petition was labeled exhibit "Khatana #1" entered into the official record.

Mr. Joseph Danko then spoke against the project. His testimony cited decreased business for existing gas stations and potential increased traffic, both through the existing light and around back of the shopping center. He also said that he was concerned about stormwater runoff to the Roberts Field stormwater pond which he thought fed into Piney Run. He expressed concern over whether there was an emergency plan that the Hampstead Volunteer Fire Department had in place in case of a large fuel spill or fire. Mrs. Watts asked Mr. Danko to show on the site plan where cars were going around the back of the shopping center. The Board continued to review traffic patterns in the shopping center. Mr. John Lyons, also a resident of Roberts Field, then spoke in opposition of the project, citing concerns about the traffic and the presence of young people at and around the shopping center.

Mrs. Watts invited anyone with Comments in Support of the project to speak. There was no additional public comment.

Mrs. Watts invited the Applicant's Rebuttal. Attorney Kevin Elden spoke on behalf of Weis Markets. Regarding the traffic concerns, he said that the gas stations typically capture around 40-60% of existing Weis customers. They don't expect much increase in traffic to the shopping center because those going to the gas station would have already been going to the shopping center for other shopping. Mr. Elden addressed the economic concerns by saying that they are a business and are trying to make money, and therefore hope to take some of the business from the other gas stations, but that there is not economic condition in the code that would prevent approval of the use. Regarding the stormwater management concern, Mr. Elden reiterated that there will be an on-site self-contained stormwater management pond that will address any potential runoff. The site plan will also go through site plan review with Carroll County at which point environmental issues, roads, traffic, etc., will be addressed. Mr. Elden addressed the safety

concerns by saying that there are already four operating gas station in the area, and that Weis will operate in compliance with all laws and all safety procedures.

The Board questioned the Applicant again. Ms. McCoy asked about where the 40-60% figures came from. Mr. Elden said that the Weis stores keep track of rewards cards numbers and credit card numbers, so they know how many customers use the gas stations. The numbers are based off figures from existing stores. Ms. McCoy asked whether the 40-60% would be capturing both Weis stores in the area. Mr. Elden clarified that he meant 40-60% of customers at the Weis store where the gas station will be. Mr. Ororbia said they only analyze the data from the stores that have the accessory gas station. Mr. Elden conceded that there may be some customers that come down from the other store to use their points, so that could potentially cause an increase in trips. Mr. Joseck asked about the Stormwater Management pond and how often that would be emptied, to which Mr. Swanik replied that it is cleaned regularly and after every storm event. Inlets are inspected and filters are cleared. The stormwater design would be reviewed by MDE. Mr. Joseck asked if the attendant would be responsible for the stormwater pond, and Mr. Swanick said they would be knowledgeable but not responsible for it, there is a Weis crew that would handle the pond. Mr. Ororbia added that they would be trained in small spill containment. Any larger spill would shut down the facility completely via computerized sensors. Mr. Ororbia discussed spill management and said there are specific protocols to keep the site safe. Mr. Elden asked if there were bonds required, and Mr. Roark said there would be two Public Works Agreements, one with the Town and one with the County, each of which will require a bond or a letter of credit. This ensures that construction is completed properly. There will also be a stormwater management agreement with the Town. All stormwater management facilities are inspected by Carroll County, residential once a year, and commercial twice a year. Mr. Roark said that the Town's Public Works Department prides itself on stormwater management so if anything happened at the proposed facility they would likely know about it quickly. Mr. Elden said that they have incentive to keep everything clean and be good neighbors because they have two sites in Town. Mr. Joseck asked if there had been any spills at any Weis gas station, Mr. Swanick said no, and that they have a third party that manages their gas Federal, state, and local requirements.

Mrs. Watts ended the Public Comment period of the hearing.

Mrs. Watts made a motion to close the hearing for legal consultation with the Town Attorney. Ms. McCoy seconded the motion. The motion to close passed with three votes for, no votes against and no abstentions.

The Board and Ms. Ostrander returned to the dais and Mrs. Watts reopened the hearing for deliberations on the case. The Board began deliberations. McCoy stated that she was concerned about the traffic at the intersection at the entrance to the shopping center. Mrs. Watts said if the traffic was bad, she wouldn't go to the shopping center because there are other gas stations she could go to. The only time she would go to that gas station is if she was there to get groceries, like at BJ's. She said other gas stations would be more convenient to get in and out of if she just wanted to get gas, so she didn't see the Weis gas station as a cause of increased traffic. The Board discussed the locations of the other gas stations in relation to Route 30 Bypass. Ms. McCoy asked how much the savings is for the Weis points, and Mrs. Watts said a lot of gas stations have points saving programs. Mr. Joseck agreed with Mrs. Watts that he felt only those who are already going to be shopping in the shopping center will go to the Weis gas station. Mr. Joseck said he had concerns about the impacts to local residents regarding the odor and dust and anything else that might trickle off the gas station, but he felt that the Applicant addressed this concern by saying the attendants would be trained to shut off the gas in the event of an overflow. He said that alleviated his concern regarding the gas station being close to residences. Mrs. Watts said there was a lot already going on in the shopping center that adding the gas station is not a concern for her. Ms. McCoy pointed out that it will not be a 24-hour gas station. The Board ended deliberation.

Mr. Joseck made a **motion to approve the request by Weis Markets for a Conditional Use for a fueling service station for at 721 Hanover Pike**. Ms. McCoy seconded the motion. The motion passed with three votes for, no votes against and no abstentions.

Mrs. Watts made **a motion to adjourn**. Ms. McCoy seconded the motion. The motion passed and the hearing was adjourned.

Submitted by:

Approved by:

Jim Roark
Town Manager/Zoning Administrator

Vickie Watts
Chair