



# **BOROUGH OF WIND GAP**

## **ZONING DEPARTMENT**

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## **ZONING HEARING BOARD**

**IN ATTENDANCE:** Members: Mark Sharp, Sam Nittle, Kelly Ronalds  
Professional: John Molnar, Solicitor  
Deborah Roseberry, Zoning Officer  
Mildred Del Negro, Zoning Secretary / SALDO Officer

Mark Sharp at 7:30 P.M called the Wind Gap Zoning Hearing Board meeting of January 4, 2006 to order. Tonight we will reorganize. Mark asked if there are any nominations.

Sam motioned to nominate Mark Sharp as the Chairperson. Kelly seconded the motion.  
All in favor.

Mark motioned to nominated Sam Nittle as Vice Chairperson. Kelly seconded the motion.  
All in favor.

Mark motioned to nominated Mildred Del Negro as Secretary. Sam seconded the motion.\  
All in favor.

Mark motioned to nominate John Molnar as Zoning Solicitor. Kelly seconded the motion.  
All in favor.

### **James McIntyre** **Case No. 7-2005—CONTINUANCE**

Mark stated that the case before the Zoning Hearing Board is a continuance from the December 2005 meeting of James McIntyre representing Brymac.

All the witnesses are sworn in.

Deborah submits Zoning Officers exhibit number 1 that the application was continued because there was another variance added to their list. This is a variance to convert a miniature golf course to a car wash and the applicant is asking a variance from Sections 311.E, the maximum impervious requirement and two variances for 311.F the minimum yard requirements and Section 404 D the buffer yards and the appellant request the Zoning Hearing Board to determine that the appellant is entitled to continue these nonconformities under Section 407 of the Zoning Ordinance which deals with nonconforming structures. Also, the appellant requests that the Zoning Hearing Board determine that the appellant has not abandoned its rights to continue or alter these nonconforming structures under Section 407.F. The application, addendum, legal notice, and information from Northampton County with a map.

Mr. Minnotti is here to represent Mr. David Lessig for Shop Quick. Mr. John Barto III, Burger King, Rt. 512, Wind Gap, PA 18091.

Mr. William Malkemes Attorney is here to represent Brymac and discusses the issue of abandonment. Mr. Malkemes handed out copies of cases of abandonment and non-conforming issues. It takes an intention of abandonment, a physical act of abandonment. The use of a car wash is a use that is permitted in this district.

James McIntyre is the first witness, 717 Johnston Drive, Bethlehem, PA and is an officer of Brymac Inc. This is a family owned corporation and James filed the application. The miniature golf course was established in 1992 and it was not open for business in 2004 or 2005 because staffing and management difficulties. The site plan dated December 6, 2005 is part of the Zoning Officers exhibit number 1. Mr. Malkemes submitted many exhibits with James McIntyre. Photos taken by air, and many, many pictures of signs along Route 512 of other businesses and buildings that are, close to the property line.

The real estate taxes on this property consist of the golf course improvement and the building that is on the property. Brymac has continued to maintain and pay real estate taxes on the property. There is a "For Sale" sign on the property and has been up for sale for about one year and a half. The existing sign that is on the property is located within the required setback.

Mr. Minnotti asked how long the miniature golf course was in business. Mr. McIntyre stated for 11 years until 2003. The business needed from five to ten employees to run the business. "In 2004 did you stop using this as a golf course?" Mr. McIntyre stated, "yes". "This business was not making money?" "It was difficult to staff". "We need at least 5 to 10 people to run the business. It depends on the day how many will be there at one time. We sold food, landscaping etc." Mr. Minnotti asked if a high school student could run the business? The applicant said "yes". Mr. Minnotti said there are about 60 uses permitted in this district and was there any other business discussed to place on

this property that do not require a variance? Mr. McIntyre said "no".

Mr. Barto asked if there is another variation like three or four bays on the property? Mr. McIntyre asked why would we do that? Mr. Barto said to fit on the property better. Mr. McIntyre said this is the best for this property and what the site requires.

Christifer F. Portner / Portner & Hetke, 19 East Elizabeth Avenue, Bethlehem, PA 18018 is an architect and is the next witness. Mr. Portner has been an architect for thirty-five years and the plan was prepared in his office. Mr. Portner, A.I.A. is here to testify on behalf of the applicant. Mr. Portner states that this property is not the typical lot shape it is usually a rectangular shape. There are two lanes that will be called stacking lanes so the vehicles will come off of Broadway and drive around the southern line and to the rear of the building. Lighting will be in accordance with the ordinance and the sign will remain on Route 512. Trash will be picked up weekly. The critical part of a car wash is stacking. Customers prefer to use the vacuum as they exit. The existing facility has no rear yard buffer. The applicant is proposing to put six bays. Two northern bays will be automatic and the four southern bays will be self-service.

Sam asked about the traffic flow coming off of Route 512 and the two stacking lanes. Mr. Portner said some customers would go to the vacuum area. Sam said after you vacuum, the vehicles will be backing up? Mr. Portner said yes.

Kelly asked how far from is the vacuum to the bay, backing up to the car wash bay? Mr. Portner said about 28' to back up and exit. Mark asked about the water run off. Mr. Portner said the plan would be going thru the Planning process. Mr. Minnotti stated that it would be better results by eliminating one or more bays. Mr. Malkemes said that would not eliminate the necessity of having the vacuum along Route 512 or the front yard setbacks. Mr. Portner said you would not eliminate the setbacks.

Frank Korpics, P.O. 3306, Bethlehem, PA my business is distributing of car wash equipment and he owns two car washes. Mr. Korpics has been in the business for twenty years. Mr. Korpics and Mr. Portner had done about 60 car washes in the past twenty years. Mr. Korpics stated that someone would be there on a part time basis. Everything is self-served, there is a closed circuit TV, there is a paging system if anything breaks down. This is a standard facility. Sam asked who would monitor the pages, and computer? Mr. Korpics said that is up to the applicant he is not sure.

Mr. Barto asked how many cars can the wash handle in an hour? Mr. Korpics said about 10 cars per hour in a peak hour in the self-serve. The automatic will handle about 12 cars per hour.

Mr. Malkemes asked Mr. McIntyre to answer Sam's question. He said the monitoring would be performed at the main office. There is someone close by at the McDonalds across the street. The car wash will be open 24 hours. Sam said at 2 am if something brakes down. Mr. McIntyre said

someone would be paged.

Mr. Minnotti questions the witness. Mr. David Lessig, owner of Shop Quick, 950 Broadway, Wind Gap, P.A. Mr. Lessig is concerned about with the water problem on Broadway and the impervious cover on Broadway and has washed cars for 20 years next door also, the applicant should have better plans with the stacking requirement and with the radius problem. The stacking is an issue on 512. Where is the water going to go?

Mr. Malkemes asked Mr. Lessig if he owns the car wash next door. Mr. Lessig said yes. Mark asked how the water flow off coming off the golf course that is there now, how does that affect Mr. Lessig's property? Mr. Lessig said between the properties, there is a creek. The concern is what is going to leave the parking lot and go on to 512. Mr. Minnotti asked if the concern was the water run off and not the financial concern? Mr. Lessig said it is not the financial concern it is more than that.

Mr. Barto owner of Burger King stated that, Appeal number 123, May 3, 1995 the court reporter was here and he tried to put a six bay car wash in and Mr. Charles McIntyre had a lot of concerns for the proposed car wash. It was different plans but Mr. Barto said he thinks there is an overuse of this property and it will increase the traffic flow on 512 and hurt his Burger King business. Also a question to Mr. Charles McIntyre in 1995 from Mr. Malkemes was, "In your opinion, do you think this is an overuse of this property" Mr. McIntyre said, "I can see putting twenty pounds of manure into a five pound sack to be blunt about it". "I think it is an incredible over use." This relief was denied by unanimous vote. Also, Mr. McIntyre stated that the car wash would hurt his McDonalds business and Mr. Barto feels the same way. Mr. Malkemes asked if the property was 16000 square feet? Mr. Barto said he does not have the exact amount but it was six bays. Mr. Malkemes stated this is 31000 square feet almost twice the size of the former plan.

The Zoning Hearing Board deliberates at 9:50.

On motion by Mark Sharp for the relief by the applicant for the issues of non-conformity and variance relief are denied.

Sam Nittle seconded the motion.

All in favor.

Motion carries.

Mark makes a motion to adjourn the meeting. Kelly seconded the motion.

All-in-favor.

Meeting was adjourned at 10:00 PM.

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Mildred Del Negro  
Zoning Secretary / SALDO Officer

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