

# JAMES J. GREENFIELD

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March 28, 2019

Kevin W. Kochanski  
Zoning Officer and Director  
of Community Development  
Radnor Township  
301 Iven Ave.  
Wayne, PA 19087

## **Re: Wawa Land Development Application**

Dear Kevin:

I represent several residential neighbors of the Wawa store and gas station that is proposed for the corner of Lancaster and Aberdeen Avenues in Wayne. We are aware that this land development application is on the Planning Commission agenda for April 1. I have reviewed the plan prepared by Bohler and designated as revision 2, dated Feb. 28, 2019, which I understand to be the plan that the Planning Commission will consider. There are two major issues with the application that we believe require Zoning Hearing Board relief before the Planning Commission moves forward.

### **1. The Proposed Use Requires a Special Exception**

Although the store portion of the proposed Wawa use is permitted in the C-2 district where the subject property lies, the gas station use is not permitted, so both the current and proposed uses are nonconforming. Code § 280-101(A) therefore applies.

The final sentence of § 280-101(A) unambiguously states: "*Any change in nonresidential occupancy shall be deemed to be a change of use for purposes of § 280-101A(1).*" Wawa will be a new nonresidential occupant on the property, so Wawa's proposal is controlled by § 280-101(A)(1), which states:

A nonconforming use may be changed to another nonconforming use by grant of special exception only upon determination by the Zoning Hearing Board, after public hearing, that the proposed new use will be no more detrimental to its neighborhood and surroundings than is the use it is to replace. In determining relative detriment, the Zoning Hearing Board shall take into consideration, among other things, traffic

generated; nuisance characteristics, such as emission of noise, dust and smoke; fire hazards; and hours and manner of operation.

Accordingly, before the Planning Commission and Board of Commissioners may consider the land development plan, Wawa must first obtain a special exception from the Zoning Hearing Board. Under the standard set by § 280-101(A)(1), Wawa bears the burden to prove that the new use will be no more detrimental to the neighborhood than the current use. Given Wawa's plan for 24-hour operation – a significant expansion from the current use – and the additional traffic likely to be attracted to Wawa's much larger retail component and its extensive, popular packaged and prepared food offerings, it seems unlikely Wawa can meet its burden and qualify for a special exception.

## **2. The Noncompliant Rear Yard Requires a Variance**

Because the proposed Wawa property is a corner lot, it must observe two front yards, one side yard and one rear yard, in accordance with the "yard requirements for corner lots" set forth in Code § 280-4. That Code section adds, "The rear lot line shall be designated as that lot line toward which the rear of the principal building is oriented."

Wawa proposes that the Lancaster Avenue (north) side of the building be treated as the front and the south side as the rear, and Wawa shows a south side setback that would exceed the rear yard requirement set by Code § 280-52(E) (35% of lot depth). Because the lot depth as measured from Lancaster Avenue is 212.1 feet and a setback of 74.2 feet therefore would be required from the south property line, Wawa suggests that its 86.3-foot south side setback is a compliant rear yard.

But the plan's layout clearly faces the Aberdeen Avenue front yard. A vehicular entrance and gas pumps are located along Aberdeen, and behind the pumps, the Wawa retail structure's longer outside dimension and its sole entrance also face Aberdeen. Because the building is "oriented" toward the west and Aberdeen, the east side of the building must be treated as its rear and the east yard must be the rear yard under § 280-4.

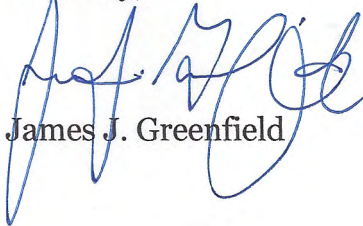
The plan says the depth of the lot as measured from Aberdeen east along Lancaster is 289.2 feet, which means the rear yard setback from the east property line must be 101.2 feet (35% of 289.2). But Wawa provides a noncompliant rear yard setback of only 80.7 feet from the east property line.

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Thus, if Wawa intends to proceed with this plan, its application to the Zoning Hearing Board should also include a request for a variance for the noncompliant rear yard setback, which is about 20% less than required by Code.

We respectfully request that you submit this letter to the Planning Commission by March 29 so that it may be reviewed before the April 1 meeting.

Sincerely,

A handwritten signature in blue ink, appearing to read "James J. Greenfield", written over the printed name.

James J. Greenfield

***By Electronic Mail***