APPLICATION FOR ZONING HEARING
FAIRVIEW TOWNSHIP, YORK COUNTY, PENNSYLVANIA

APPLICANT(S)/EQUITABLE OWNER
Name: JCBD Properties LLC
Address: 1005 E. King Street
York, PA 17403
Phone: (717) 854-8122

EXISTING OWNER OF PROPERTY:
Name: Scott D. Karns
Address: 675 Silver Spring Road
Mechanicsburg, PA 17050

PROPERTY LOCATION:
Address: 99 Lewisberry Road
New Cumberland, PA 17070
Lot Size: 28,625 sq. ft.
Date Purchased: Under Contract
Location: Parcel 67-27-000-03-0049-A0 00000 ; Fairview Township

PRESENT USE OF PROPERTY:
Vacant

FILE COPY

EXISTING ZONE: Village Business

PROPOSED USE: (a precise and complete statement of what the applicant is requesting to do)
See attached.

ZONING REQUEST (circle the applicable request or requests):

(1) VARIANCE (Alternative)
(2) SPECIAL EXCEPTION (Primary)
(3) APPEALS:
- ❶ ZONING OFFICERS DECISION
- ❷ INTERPRETATION (MAP)
- ❸ OTHER

2015-06

SECTION (s) OF ZONING ORDINANCE WHICH APPLY TO THIS APPLICATION
(This should be the specific section of the Zoning Ordinance involved in the request):
Section (s): § 300-78, § 300-21(E) Table 5-7, §300-80(B)(1)(b)(1)
COMMENTS: See attached.

FOR ZONING OFFICERS USE:

CASE NUMBER No: 2015-06
FEE PAID: 2/JUL15
NOTICE MAILED:
PROPERTY POSTED:
ZBH PACKETS MAILED:

HEARING DATE:
RECEIPT ISSUED:
PROPERTY ZONED: _____
SPECIAL EXCEPTION: _____
VARIANCE: _____

ZHB DECISION: APPROVED DENIED DATE OF DECISION:

LIST ALL INDIVIDUAL PROPERTY OWNERS WITHIN 300 FEET OF THE PERIMETER OF ALL PROPERTY LINES. APPLICATIONS WILL BE CONSIDERED INCOMPLETE UNLESS ALL PROPERTIES ARE IDENTIFIED.

NAME	ADDRESS	USE TYPE
See Attached.		

EXHIBIT

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PropertyLocation	Use	Name1
102 LEWISBERRY RD	Commercial	ZEIGLER RANDY L
101 LEWISBERRY RD	Residential	BUSLER CHARLES D & KAREN D
LEWISBERRY RD	Vacant Lot- Airport	SUSQUEHANNA AREA REGL AIRPORT AUTH
205 YORK RD	Residential	KEAR JAMES M
7 LEWISBERRY RD	Residential	DAGOSTINO MATTHEW J & RINNOVI HOMES
LEWISBERY RD	Vacant Land	DAGOSTINO MATTHEW J
204 YORK RD	Residential	GRUBB BARRY L JR
103 LEWISBERRY RD	Residential	HOSTETLER TARA
6 LEWISBERRY RD	Multi-Family	DAILEY JOSEPH
104 LEWISBERRY RD	Commercial	BOWSER DAVID D JR & GILMORE DAVID M
103 YORK RD	Residential	KARNS D SCOTT &
103-105 HUTTON RD	Residential	MILLER RONALD L & JOAN F.
101 HUTTON RD	Residential	MCGRATH TIMOTHY P & SARAH J
105 LEWISBERRY RD	Residential	HALL EDWARD W
2 YORK RD	Residential	RENDE RALPH A
106 LEWISBERRY RD	Commercial	MYERS MARCIA M
207 YORK RD	Residential	STONESIFER JOSHUA H
HUTTON RD	Residential	DAVIS KEVIN J
107 LEWISBERRY RD	Residential	FULLER JANET L & LAWRENCE E JR
109 HUTTON RD	Residential	DAVIS KEVIN J
205 YORK RD	Residential	KEAR JAMES M
4 YORK RD	Residential	GRUVER T ROBERT
100 HUTTON RD	Residential	GINGERICH MARTIN E & JANICE M
205 YORK RD	Residential	KEAR JAMES M
99 LEWISBERRY RD	subject property	KARNS D SCOTT &
201 YORK RD	Residential	SNYDER CARL & DEBBIE J
102 HUTTON RD	Residential	LEIB SARAH R
5 LEWISBERRY RD	Commercial	DAGOSTINO MATTHEW J & RINNOVI HOMES
208 YORK RD	Residential	MILLER MERVIN R
104 HUTTON RD	Residential	SHOFF DOUGLAS M

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IN THE MATTER OF	**: BEFORE THE FAIRVIEW TOWNSHIP**
THE APPLICATION OF	**: ZONING HEARING BOARD**
JCBD PROPERTIES, LLC	**: YORK COUNTY, PENNSYLVANIA**
	: DOCKET NO. 2015-06

DECISION GRANTING A SPECIAL EXCEPTION TO SECTION 300-80(B)(1) OF THE FAIRVIEW TOWNSHIP ZONING ORDINANCE

The Applicant applied for a special exception under Section 300-80(B)(1) of the Fairview Township Zoning Ordinance for the extension of a nonconforming building into the setback areas of the front and side yards on the property located at 99 Lewisberry Road, New Cumberland, PA, in the Village Business ("VB") District of Fairview Township. A hearing on the application was held on August 20, 2015, at 7:00 p.m. at the Fairview Township Municipal Building, 599 Lewisberry Road, New Cumberland, PA 17070.

FINDINGS OF FACT

1. The Applicant is JCBD Properties, LLC, with offices located at 1005 E. King Street, York, PA 17403. JCBD Properties, LLC, has an equitable interest in the property at 99 Lewsiberry Road, New Cumberland, Fairview Township which is the subject of the application pursuant to an Agreement for the Sale of Commercial Real Estate which is subject to contingencies including zoning and use approvals.

2. The Applicant was represented at the hearing by Devon M. Myers, Esquire, CGA Law Firm, 135 N. George Street, York, PA 17401.

3. Notice of the hearing was properly advertised; the property was properly posted; and all neighboring property owners required to be notified of the hearing were notified in accordance with the Township Ordinance and the Pennsylvania Municipalities Planning Code.

4. Testifying for the Applicant was John Woodward, 1005 E. King Street, York, PA 17043.

5. The Applicant requests a special exception[1] pursuant to Section 300-80(B)(1) of the Zoning Ordinance which permits the extension, expansion, and enlargement of any lawful nonconforming use and/or structure provided that certain terms and conditions are met. The Applicant wishes to expand the existing building walls by 12.63 feet on the west side abutting York Road and 9.75 feet on the north side for a total additional area of 123.14 square feet. The existing walls to be extended are both nonconforming in setback at 6 feet in the front yard abutting York Road and 10 feet setback in the side yard to the north. The current Ordinance requires 20 feet front, side, and rear. See Fairview Township Zoning Ordinance Section 300-21(E), Table 5-7. Mr. Woodward testified that the application met each of the individual requirements, (a) through (g), for a Special Exception to extend a nonconforming structure pursuant to Section 300-80(B)(1) of the Zoning Ordinance.

6. The subject property is 28,625 square feet in area, with the existing structure, which was built in 1963 prior to the Zoning Ordinance, being 8,328 square feet in area. At the present time, the building is vacant. Applicant is planning to lease the property for a Dollar General store should the building expansion be permitted to fill in the area on the northwest corner of the building.

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[1] The Applicant also requested: (1) Registration of its nonconformities under Section 300-78 of the Ordinance. That registration is not within the jurisdiction of the Zoning Hearing Board and must be requested of the Zoning or Codes Enforcement Officer; and (2) alternatively to the Special Exception, variances from the setback requirements of the Ordinance. Since the Special Exception was granted it was not necessary for the Zoning Hearing Board to consider the variance request.

7. The requested extension will not extend beyond the existing nonconforming setback lines and no additional nonconformity will be created. Further, the new extension would increase the building area by less than two (2%) percent of the existing floor area.

CONCLUSIONS

1. The Applicant has the burden of establishing its entitlement to the special exception.

2. On the basis of the testimony and documentary evidence presented, the Board concludes that the Applicant established that it is entitled to the special exception for the expansion of the existing nonconforming building as requested, extending the existing wall 12.63 feet abutting York Road and the existing wall on the north side yard 9.75 feet for a total newly constructed area of 123.14 square feet. Therefore, the Fairview Township Zoning Hearing Board should grant the special exception pursuant to Section 300.80(B)(1) of the Zoning Ordinance to allow the expansion of the current nonconforming structure, provided that the expansion not extend beyond the existing nonconforming setback lines.

DECISION

On the basis of the foregoing findings and conclusions and on the basis of all the testimony and evidence presented to the Board at the hearing, the request for the special exception should be granted to allow the requested expansion of the current nonconforming structure, provided that the expansion not extend beyond the existing nonconforming setback lines.

The Application was approved as stated upon the motion of Mr. Guy, seconded by Mr. Shaffer and adopted 2-0 by the Board Members present and voting.

Dated: 9/17/15

By: _____
David Guy, Chairman

Distribution: Applicant
Devon M. Myers, Esquire