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Christian R. Miller, Direct E-mail:
cmiller@mpl-law.com

August 19, 2022

Daystar Center for Spiritual Recovery
204 Limekiln Road
New Cumberland, PA 17070

VIA REGULAR MAIL

RE: Fairview Twp. Zoning Hearing Board – No. 2022-04

To Whom It May Concern:

Enclosed please find the fully executed decision of the Fairview Twp. Zoning Hearing Board for Docket No. 2022-04 related to Daystar Center for Spiritual Recovery's zoning hearing board application, heard and decided by the Zoning Hearing Board on July 21, 2022.

Thank you.

Very truly yours,

MPL LAW FIRM

A handwritten signature in blue ink, appearing to read 'Christian R. Miller'.

Christian R. Miller, Esquire

Enclosure

Cc: Fairview Township Zoning Hearing Board (c/o Stephen Waller, Zoning Officer)

**BEFORE THE FAIRVIEW TOWNSHIP
ZONING HEARING BOARD**

DECISION

**IN RE: APPLICATION OF DAYSTAR CENTER FOR SPIRITUAL RECOVERY
APPLICATION NO. 2022-04**

APPLICANT(S): Daystar Center for Spiritual Recovery
HEARING DATE: July 21, 2022
DECISION DATE: July 21, 2022
APPEARANCES: Fern Wilcox, MHS, LPC, CAADC, CIP, Chief Executive Officer
of Daystar Center for Spiritual Recovery, on behalf of Applicant
Chris Hoover, P.E., Hoover Engineering Services, Inc., on behalf
of Applicant
Stephen Waller, Township Zoning Officer
EXHIBITS: Exhibit 1 – Application (including all submittals)
Exhibit 2 – Site Plan
SUBJECT PROPERTY: 204 Limekiln Road, New Cumberland, PA 17070
UPI # 27-000-SF-0002.H0-00000

BACKGROUND

This decision of the Fairview Township Zoning Hearing Board (the “**Board**”) is from an application filed by Daystar Spiritual Recovery Center (the “**Applicant**”) with Fairview Township (the “**Township**”) on June 21, 2022 (the “**Application**”), seeking zoning relief under the Township’s Zoning Ordinance (the “**Ordinance**”) for a dimensional variance from § 300-57(B)(1) of the Ordinance to permit a parking layout where some motor vehicles may be parked-in based on the parking design (i.e. – each parking space does not provide for free exit without moving vehicles if all parking spaces are occupied). The subject property is located at 204 Limekiln Road, New Cumberland, PA 17070, UPI No. 27-000-SF-0002.H0-00000 (the “**Property**”), which is located in the Commercial Business (CB) District.

A hearing was held on the Application on Thursday, July 21, 2022, at 6:30 p.m. at the Fairview Township Building. The Zoning Hearing Board was represented by Timothy Mader (Chairman), Mark Perry and alternate Daniel Alderman in attendance. All published and posted notices were duly given, with no objection thereto being made in writing or orally at the time of the hearing. No testimony in opposition to the Application was offered or taken, and no parties attended the hearing in opposition. After hearing the testimony and viewing the evidence in this matter, the Board makes the following determinations:

FINDINGS OF FACT

1. The Applicant is the fee simple owner of the Property by Deed dated June 22, 2021, recorded in the York County Recorder of Deeds Office on June 28, 2021, at Record Book 2661, Page 5472, Instrument No. 2021039939.

2. Fern Wilcox, MHS, LPC, CAADC, CIP, Chief Executive Officer of Daystar Center for Spiritual Recovery, testified on behalf of Applicant.

3. The Applicant is a Pennsylvania-licensed drug and alcohol treatment facility with existing locations for men-only in Harrisburg, Pennsylvania. The Applicant has been in business for more than 25 years. The Applicant purchased the Property to convert into a treatment and recovery facility exclusively for women (the "**Proposed Facility**"). The Proposed Facility will be a permitted use in the CB District.

4. People who come to the Proposed Facility will have been through prior treatment and will be clean and sober when entering to this next level of treatment program. The focus of the Proposed Facility will be on life skills as part of recovery process so that residents can maintain long-term recovery.

5. The Proposed Facility's state license will allow Applicant to reject applications of persons not suited to the program. The Applicant will have an interview process for every resident before being accepted. The facility will not take violent criminals or sex offenders.

6. The Proposed Facility will have 14 residents based on the current state license.

7. The Proposed Facility will operate on three shifts. The first shift will be from 8 am – 4 pm with 5-6 employees with at most 5-6 cars parked on the Property. There will also be one van utilized during the day mostly to transport clients to doctor appointments, places of employment, and things of that nature.

8. The second shift will be from 4 pm – midnight with two employees and at most 2 cars parked on the Property. The third shift will operate from midnight – 8 am and will also have two employees and at most 2 cars parked on the Property.

9. Visitation by family members and some friends will be allowed at the Proposed Facility, but there are not expected to be more than a few visitors at any one time.

10. Chris Hoover, P.E., Hoover engineering, Inc., also testified on behalf of Applicant. Mr. Hoover introduced a site plan that was attached to the Application and will be referred to as Exhibit 2.

11. The Property was previously a bed and breakfast for many years.

12. Exhibit 2 shows that the parking lot for the Property is partially on adjacent property, but has been utilized by the Property for many years. Mr. Hoover is not sure what agreements exist for the encroachment.

13. The parking is constricted by an existing fence and evergreen trees and the topography of the Property drops off into the Yellow Breeches Creek just adjacent to the existing parking.

14. The Ordinance requires 10 parking spaces based on the projected number of residences and employees for the Proposed Facility. However, residents do not have vehicles in this case, there will be an occasional family member or friend to visit.

15. Biggest parking demand will be during the first shift when the most employees are present.

16. The existing features and topography of the Property does not allow for expansion of the parking area. The parking area is boxed in by Limekiln Road and the Yellow Breeches Creek.

17. Exhibit 2 shows available for parking of 5 spaces without stacking or double-parking. The parking area can accommodate the required 10 spaces with stacking or double parking. However, that requires movement of vehicles in order to park or exit with other vehicles.

18. Stephen Waller, Township Zoning Officer, testified on behalf of the Township. Mr. Waller confirmed the notice requirements for the Application have been met. He also confirmed in response to questions from the Board that the proposed parking spaces meet the dimensional requirements for parallel parking spaces (8'x22') required by § 357.8(8) of the Ordinance.

19. Motion to grant ordinance variance 300-57.B parking; second by Mader; Motion passed 2-1 vote.

20. Note that decision does not grant right to park on adjacent property.

CONCLUSIONS OF LAW

1. The Applicant has established the elements required for a variance by Section 300-99(E)(4) of the Ordinance have been met based on the unique and pre-existing physical characteristics of the property.

2. The hardship is not self-created.

3. The requested dimensional variance will not alter the essential character of the surrounding neighborhood.

4. The requested dimensional variance represents the minimum variance that will afford relief and be the least modification possible of the Ordinance to accommodate the use.

DECISION

Mr. Perry moved to grant the dimensional variance from § 300-57(B)(1) of the Ordinance to permit a parking layout where some motor vehicles may be parked-in based on the parking design (i.e. – each parking space does not provide for free exit without moving vehicles if all

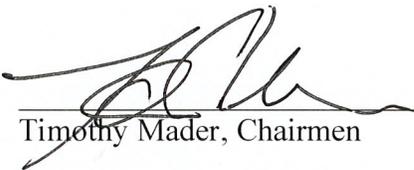
parking spaces are occupied). Mr. Mader seconded the motion. Upon a vote, the Fairview Township Zoning Hearing Board approved the motion on a 2-1 vote.

THE FOREGOING DECISION DOES NOT PERTAIN THE UNDERLYING OWNERSHIP OF THE PARKING AREA ON ANY ADJACENT PARCEL AND NOTHING IN THIS DECISION SHALL BE CONSTRUED TO GRANT THE APPLICANT THE RIGHT TO PARK OR OTHERWISE USE ADJACENT LAND.

APPLICANT SHALL ABIDE BY ALL FEDERAL, STATE AND LOCAL LAWS, REGULATIONS AND ORDINANCES PERTAINING TO PERMISSIONS GRANTED BY THIS DECISION.

APPLICANT SHALL PROCEED PURSUANT TO THIS DECISION IN ACCORDANCE WITH THE TESTIMONY AND EXHIBITS PRESENTED AT THE HEARING.

Date: 8/18/22



Timothy Mader, Chairmen

ANY PERSON AGGRIEVED BY THIS DECISION OF THE FAIRVIEW TOWNSHIP ZONING HEARING BOARD MAY APPEAL TO THE COURT OF COMMON PLEAS OF YORK COUNTY, PENNSYLVANIA. THE APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS FROM THE MAILING OF THESE FINDINGS OF FACT, CONCLUSIONS OF LAW AND THE ABOVE DECISION.

MAIL DATE: 8-19-22



ZONING HEARING BOARD APPLICATION
YORK COUNTY, PENNSYLVANIA

Part 1:

APPLICANT(S)/EQUITABLE OWNER

Name: Daystar Center for Spiritual Recovery
Address: 204 Limekiln Road
New Cumberland, PA 17070
Phone: 717-230-9898

EXISTING OWNER OF PROPERTY:

Name: Same as Applicant
Address:

PROPERTY LOCATION:

Address: 204 Limekiln Road
New Cumberland, PA 17070
Lot Size: 2.77 acres
Date Purchased: June 22, 2021
Location: 204 Limekiln Road

PRESENT USE OF PROPERTY:

Commercial - Bed and Breakfast Inn

EXISTING ZONE: CB - Commercial Business

Part 2:

ZONING REQUEST (Identification of the applicable request(s)):

- () SUBSTANTIVE CHALLENGE
() SPECIAL EXCEPTION
(X) VARIANCE
() APPEAL OF THE ZONING OFFICERS DECISION



SECTION(S) OF ZONING ORDINANCE WHICH APPLY TO THIS REQUEST - Please identify the specific section(s) of the Zoning Ordinance involved in the request:

300-57.B.(1) - Parking areas shall be designed so that each motor vehicle may proceed to and from said parking space without requiring the moving of another vehicle

Part 3:

DESCRIPTION OF REQUEST:

The applicant is requesting to utilize the existing macadam parking area to provide the required parking. Due to the size of the parking area, and the limitations to expand the parking area (i.e. existing mature trees, steep slopes), it is not possible to provide the required size of driving alleys and parking space configuration

❖ *Part 5 For office use only:*

ZONING HEARING BOARD CHECKLIST

Application Received: _____

Property Zoned: _____

Asking for Special Exception, Variance or Appeal: _____

Case No.: _____

Fees Paid: _____

Hearing Date: _____

Draft Public Notice sent to Attorney for review: _____

Notice sent to Newspaper: _____

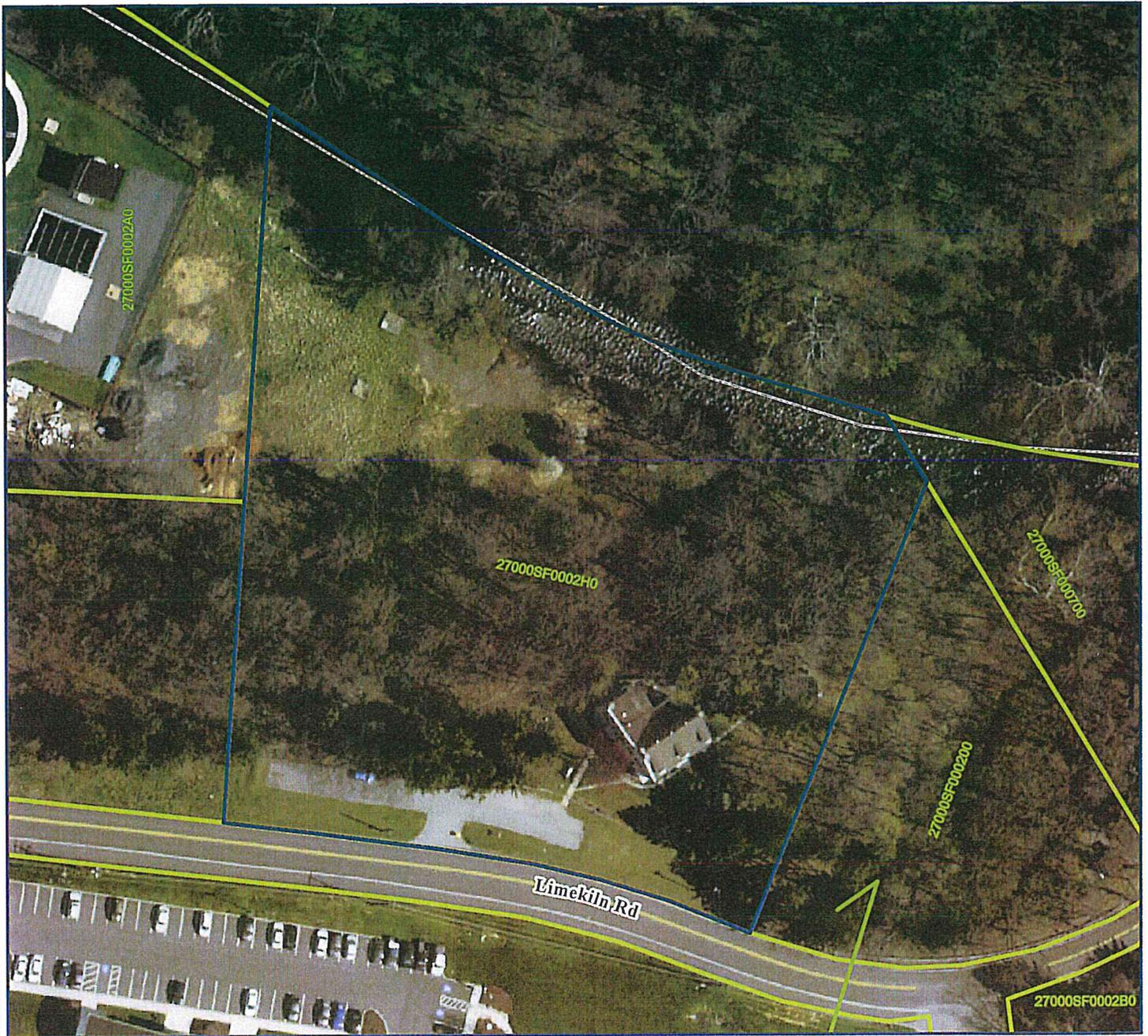
Notice Published in Newspaper: _____

Notice Mailed to Property Owners in 225ft. Buffer: _____

Public Notice Posted on Property: _____

ZHB Packets Mailed and Emailed: _____

Parcel - 27000SF0002H000000



Owner - DAYSTAR CENTER FOR SPIRITUAL RECOVERY

Address - 204 LIMEKILN RD

Tax Municipality - Fairview Twp

School District - West Shore School District

Class - Exempt

Land Use - E - Human Services Facility

Acres - 2.77

Assessed Land Value - 52970

Assessed Building Value - 276870

Assessed Total Value - 329840

Sale Date - 28-JUN-2021

Sale Price - 360000

Deed Book - 2661

Deed Page - 5472

Legend

- Selected Parcel
- Parcels
- US Route
- Interstate
- PA Turnpike
- State Road

Mapping Provided by

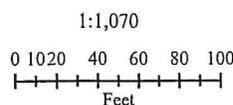
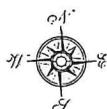


Last Updated 3/22/2022

Layers should not be used at scales larger than 1:2400
(Note: Pixilation will occur at scales 1" = below 200 Ft.)
Aerial Photography - 2018

Disclaimer:

The York County Planning Commission provides this Geographic Information System map and/or data (collectively the "Data") as a public information service. The Data is not a legally recorded plan, survey, official tax map, or engineering schematic and should be used for only general information. Reasonable effort has been made to ensure that the Data is correct; however the Commission does not guarantee its accuracy, completeness, or timeliness. The Commission shall not be liable for any damages that may arise from the use of the Data.



File No. CF.497494.2.14.2021-END

Parcel ID No. 27-000-SF-0002.H0-00000

Property address: 204 Limekiln Road, New Cumberland, PA 17070

This Deed,

Made the 22nd day of June in the year
TWO THOUSAND TWENTY ONE (2021)

Between

PHILIP R. LEONARD and MYRA LEONARD, husband and wife, of New Cumberland, York County, Pennsylvania, parties of the first part, hereinafter referred to as the GRANTORS

AND

DAYSTAR CENTER FOR SPIRITUAL RECOVERY, A NONPROFIT CORPORATION, party of the second part, hereinafter referred to as the GRANTEE

Witnesseth, that the said Grantors for and in consideration of the sum of -----
-THREE HUNDRED SIXTY THOUSAND DOLLARS and 00/100-----
-----(\$360,000.00)-----

lawful money of the United States of America, unto them well and truly paid by the said Grantees, at or before the sealing and delivery hereof, the receipt whereof is hereby acknowledged, have granted, bargained and sold, released and confirmed, and by these presents do grant, bargain and sell, release and confirm unto the said Grantees, their assigns, the survivor of them and the survivor's personal representatives and assigns,

Tract 1 :

ALL THAT CERTAIN piece or parcel of land together with any and all improvements thereon erected, situate in Fairview Township, York County, Pennsylvania, more particularly bounded and described as follows, to wit:

BEGINNING at a point on the northern side of Limekiln Road (T-955) which point of beginning is referenced by the following two courses and distances from the center line of the intersection of LR 33319 (1-83) and T-955 (Limekiln Road): (1) South 21 degrees 26 minutes (erroneously stated as 28 in prior deed) 13 seconds West a distance of thirty and twenty-eight hundredths (30.28) feet to a point in the center line of Limekiln Road; (2) along the center line of Limekiln Road two thousand ninety-five and thirty-two hundredths (2,095.32) feet; thence by land of the Henry N. Bowman Estate North 21 degrees 26 minutes (erroneously stated as 28 in prior deed) 13 seconds East a distance of one hundred eighteen and ninety-one hundredths (118.91) feet to a point; thence by land of Lower Allen Township Authority North 21 degrees 26 minutes 00 seconds East a distance of one hundred eighty and ninety-two hundredths (180.92) feet to a point at the Yellow Breeches Creek; thence by the Yellow Breeches Creek the following two courses and distances: South 62 degrees 09 minutes 00 seconds East, a distance of two hundred seventy-six and twenty-six hundredths (276.26) feet to a point; (2) South 73 degrees 04 minutes 00 seconds East a distance of one hundred twenty-five and twenty three hundredths (125.23) feet to a point; thence South 09 degrees 37 minutes 00 seconds East a distance of forty-four and seventy-six hundredths (44.76) feet to a point at Tract No. 2 on the hereinafter mentioned Plan; thence by Tract No. 2 South 38 degrees 43 minutes 40 seconds West a distance of two hundred eighty-eight and eighty-six hundredths (288.86) feet to a point on Limekiln Road; thence by Limekiln Road the following three courses and distances: (1) North 48 degrees 03 minutes 00 seconds West a distance of forty-one and fifty-six hundredths (41.56) feet to a point; (2) by a curve extending to the left in a northwestwardly direction and having a radius of five hundred ten (510) feet an arc distance of two hundred thirty-seven and thirty-six hundredths (237.36) feet to a point; (3) North 76 degrees 23 minutes 00 seconds West a distance of fifty and three hundredths (50.03) feet to a point, the place of **BEGINNING**.

HAVING THEREON ERECTED a frame and stone dwelling house.

CONTAINING 109,528.42 square feet or 2.51 acres, more or less.

BEING Tract No. 1 on a Final Subdivision Plan of a Tract of land for the Estate of Henry N Bowman made by William B Whittock, P.E. , December 12, 1975 and recorded in York County Plan Book Y, page 463.

Tract 2:

ALL THAT CERTAIN piece or parcel of land together with any and all improvements thereon erected, situate Fairview Township, York County, Pennsylvania, more particularly bounded and described as follows, to wit:

BEGINNING at a point on the northern right-of-way line of Limekiln Road relocated, said point being located and referenced the following courses and distances from Pennsylvania Department of Transportation center line end of authorization station 33 + 50 on Limekiln Road (T-955) (1) South 06 degrees 04 minutes West, a distance of 16.50 feet to a point; (2) South 83 degrees 39 minutes East along the southern right-of-way line of Limekiln Road (T-955), a distance of 665.03 feet to a point: (3) South 76 degrees 55 minutes 30 seconds East along the northern right-of-way line of Limekiln Road relocated, a distance of 70.82 feet to the point of beginning; thence along Area #1A and land of Henry N. Bowman Estate, North 21 degrees 26 minutes 13 seconds East, a distance of 47.86 foot to a point; thence along land of Chad Combs, South 76 degrees 23 minutes East, a distance of 50.03 feet to a

point of circular curvature; thence along the same in a southeasterly direction on the arc of a circular curve curving to the right having a radius of 510 feet, an arc length of 252.20 feet to a point of circular tangency; thence along the same, South 48 degrees 03 minutes East, a distance of 41.56 feet to a point; thence along Area #IC, South 38 degrees 43 minutes 40 seconds West, a distance of 1.88 feet to a point on the northern right-of-way line of Limekiln Road relocated; thence along the same in a northwesterly direction on the arc of a circular curve curving to the right having a radius of 260.98 feet, an arc length of 64.54 feet to a point of reverse curvature; thence along the same in a northwesterly direction on the arc of a circular curve curving to the left having a radius of 538.41 feet, an arc length of 168.53 feet to a point of circular tangency; thence along the same North 76 degrees 55 minutes 30 seconds West, a distance of 105.20 feet to the point of BEGINNING.

CONTAINING 11,401.25 square feet, more or less.

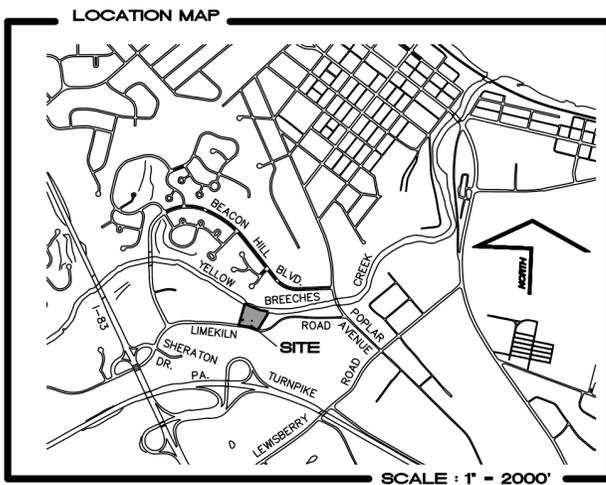
BEING THE SAME PREMISES WHICH Phyllis Combs, Widow, by Deed dated November 23, 2010 and recorded December 1, 2010 in Instrument #2010058727 in the Office of the Recorder of Deeds of York County, Pennsylvania, granted and conveyed unto Philip R. Leonard and Myra Leonard, husband and wife, Grantors herein.

Together with all and singular the buildings and improvements, ways, streets, alleys, driveways, passages, waters, water-courses, rights, liberties, privileges, hereditaments and appurtenances, whatsoever unto the hereby granted premises belonging, or in anywise appertaining, and the reversions and remainders, rents, issues, and profits thereof; and all the estate, right, title, interest, property, claim and demand whatsoever of them, the said grantors, as well at law as in equity, of, in and to the same.

To have and to hold the said lot or piece of ground described above, with the buildings and improvements thereon erected, hereditaments and premises hereby granted, or mentioned and intended so to be, with the appurtenances, unto the said Grantees, their heirs and assigns, to and for the only proper use and behoof of the said Grantees, their heirs and assigns, forever.

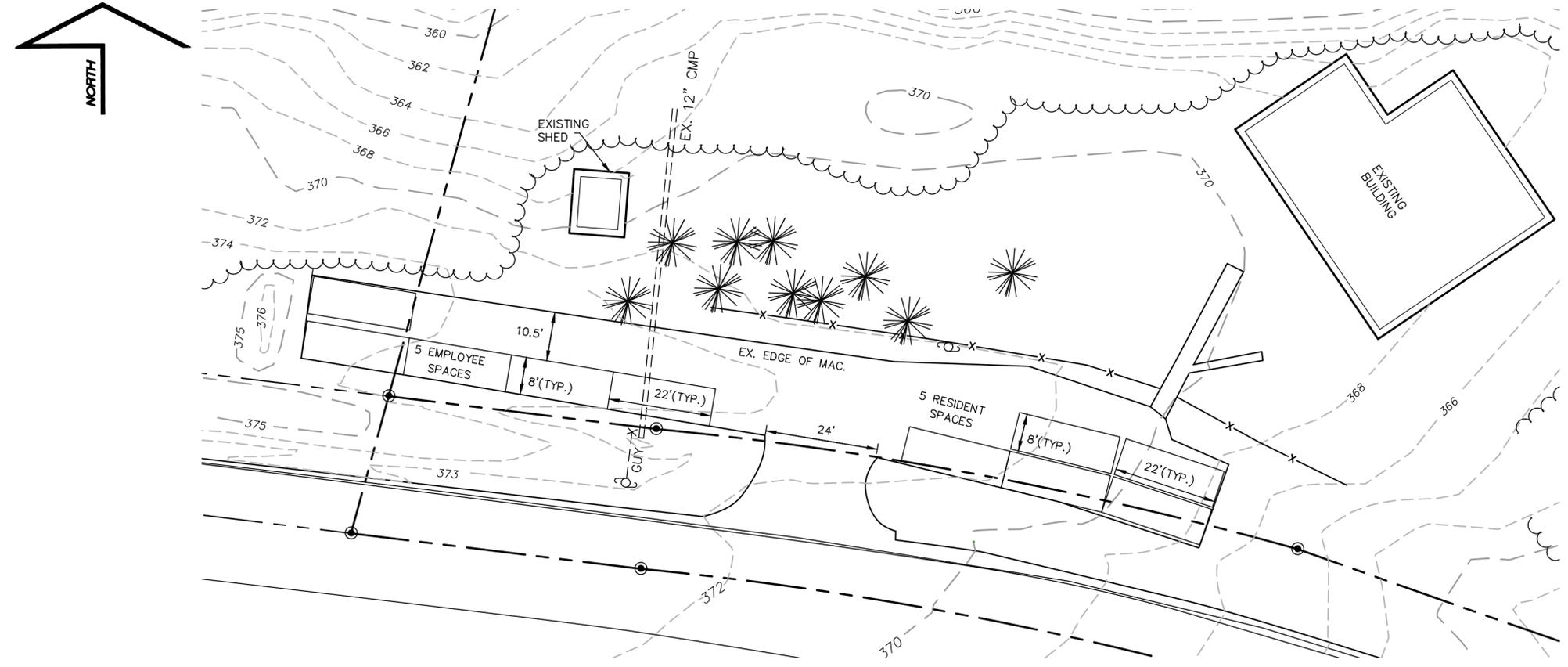
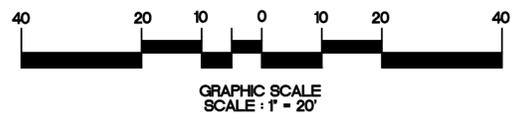
And the said Grantors, for themselves and their heirs, executors and administrators, do, by these presents, covenant, grant and agree, to and with the said Grantees, their heirs and assigns, that they, the said Grantors, and their heirs, all and singular the hereditaments and premises herein described and granted, or mentioned and intended so to be, with the appurtenances, unto the said Grantees, their heirs and assigns, against them, the said Grantors, and their heirs, and against all and every other person and persons whosoever lawfully claiming or to claim the same or any part thereof, by, from or under him, her, it, or any of them, shall and will ...

Specially Warrant and Defend.



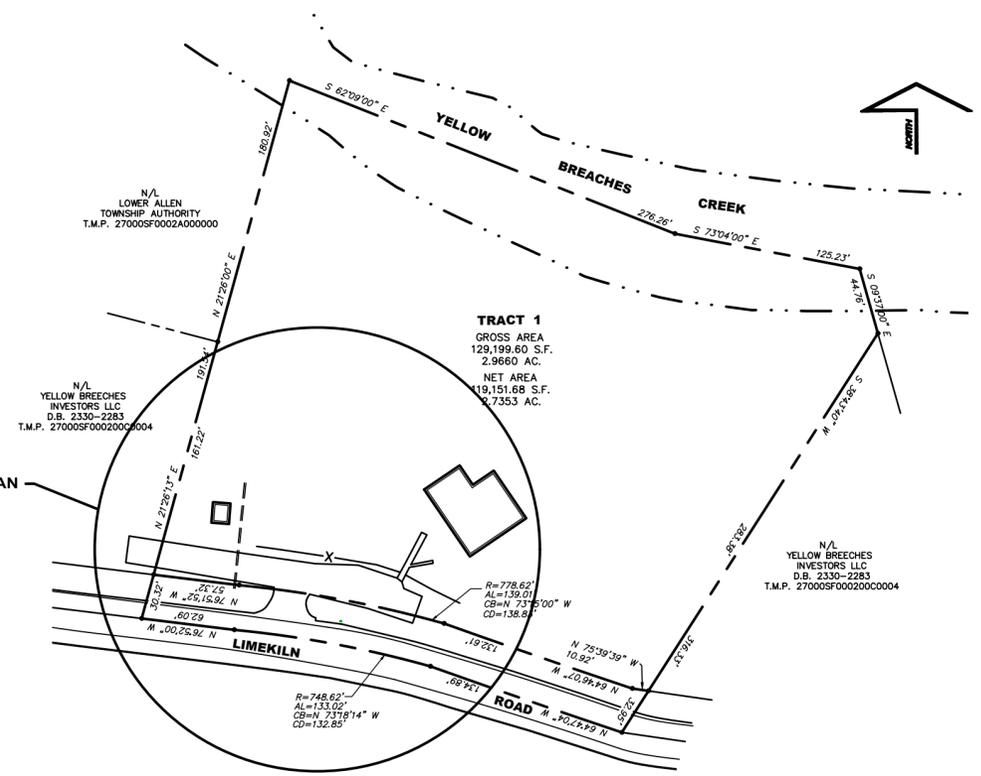
LEGEND

	PROPERTY LINE
	ADJOINING PROPERTY LINE
	10' CONTOUR INTERVAL
	2' CONTOUR INTERVAL
	EXISTING STORM SEWER
	UTILITY POLE
	EXISTING TREELINE
	EXISTING EVERGREEN TREE
	FENCE LINE

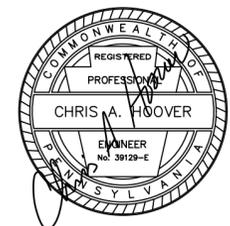


ENLARGEMENT PLAN
SCALE: 1" = 20'

SEE ENLARGEMENT PLAN



OVERALL LOT PLAN
SCALE: 1" = 80'



OWNER:
DAYSTAR CENTER FOR SPIRITUAL RECOVERY
FERN WILCOX
204 LIMEKILN ROAD
NEW CUMBERLAND, PA 17070
717-271-3715

DATE: 6-16-22
SCALE: AS NOTED
FILE: 222095base

ZONING HEARING BOARD EXHIBIT
FOR
DAYSTAR CENTER FOR SPIRITUAL RECOVERY
FAIRVIEW TOWNSHIP, YORK COUNTY, PENNSYLVANIA

NO.	DATE	DESCRIPTION	BY

HOOVER
ENGINEERING SERVICES, INC.
ENGINEERS • PLANNERS • SURVEYORS
688 GAUMER RD., SUITE 100
NEW CUMBERLAND PA, 17070-2823
TELEPHONE (717) 770-0100 FAX (717) 770-1587