



Bucks County Law Reporter

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CASES REPORTED

IN RE: SKP Enterprises d/b/a Petri's Skyline Tavern – New Britain Township Zoning Hearing Board - Land use – Non-conforming use – Special exception – Detriment to health, safety and welfare of the community – Held, ZHB decision affirmed and the appeal of the Township and Neighbors denied 23

LEGAL NEWS

Bar Association News	3-6
Notice to the Bar	3
CLE at the BCBA.....	6

LEGAL NOTICES

Change of Name	20
Charter Application.....	21
Limited Liability Company.....	21
Nonprofit.....	22
Corporate Dissolution	22
Estate Notice	22
Fictitious Name	26
Miscellaneous	26

Bucks County Law Reporter

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Chair: Kevin M. Zlock, Esquire
Editor: Maureen Serpico, Esquire
Asst. Editor: John Hart, Esquire

Deanna Mindler
Executive Director

Editorial Office:
135 E. State Street, P.O. Box 300
Doylestown, PA 18901-0300
215-348-9413
1-800-479-8585

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The Register of Wills shall begin collecting this fee on **January 2, 2015**. The Register of Wills shall update its fee bill accordingly.

Respectfully,
DONALD PETRILLE, JR.
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Clerk of the Orphans' Court of Bucks County
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Nov. 13—Feb. 5

IN RE: SKP Enterprises d/b/a Petri's Skyline Tavern – New Britain Township Zoning Hearing Board

Restaurant owner, New Britain Township and Neighbors appeal decision of the New Britain Township Zoning Hearing Board (ZHB) granting a special exception to restaurant owner to expand restaurant by constructing a patio for outdoor dining. The court found that sufficient evidence was presented in support of the ZHB's decision to grant a special exception; the ZHB did not abuse its discretion by imposing conditions to the grant of the special exception; and the grant of the special exception would not adversely affect the health, safety and welfare of the Neighbors.

Land use – Non-conforming use – Special exception – Detriment to health, safety and welfare of the community – Held, ZHB decision affirmed and the appeal of the Township and Neighbors denied.

1. Pursuant to 53 P.S. §10908 (3) a township is automatically granted party status in an appeal from a zoning hearing board decision.

2. On appeal from a zoning hearing board decision wherein a trial court takes no additional evidence, the standard of review is whether the zoning hearing board abused its discretion or committed an error of law in reaching its decision.

3. When applying for a special exception, the applicant must meet the initial burden of showing compliance with the objective requirements of the zoning ordinance. Once this initial burden is met, the burden shifts to any objectors to prove that the proposed use is detrimental to the health, safety and general welfare of the community.

4. A zoning hearing board is permitted to impose reasonable conditions and safeguards upon the grant of a special exception.

C.P. Bucks County, Civil Division, No. 2013-04851-36. Land Use – Grant of special exception. IN RE: SKP Enterprises, LLC d/b/a Petri's Skyline Tavern – New Britain Township Zoning Hearing Board.

Robert Gundlach, Jr., Esquire, Fox Rothschild LLP, for the Appellant.

N. Peter Nelson, Esquire, Grim, Biehn & Thatcher, for the Township.

David M. Shafkowitz, for the Neighbors.

GILMAN, J., October 10, 2014.

OPINION

I. INTRODUCTION

SKP Enterprises, LLC (hereinafter referred to as “SKP”) and Eileen and James Domanico, Maryanne Domanico, Audrey Raffle and Adam Weisbaum (hereinafter referred to as the “Neighbors”)¹ have filed land use appeals from the May 28, 2013 written decision of the New Britain Township Zoning Hearing Board (hereinafter referred to as the “ZHB”) which was rendered following several hearings.²

¹ The Neighbors requested and received party status at the first hearing, due to the proximity of their homes to SKP's restaurant, the expansion of which is the basis of this appeal.

² The hearings before the ZHB were conducted on February 21, 2013, March 21, 2013, April 18, 2013, and April 25, 2013. Both appeals were filed with this Court on June 27, 2013. Thereafter, all parties signed a stipulation consolidating the two appeals. That stipulation was confirmed by this Court in our Order dated August 29, 2013.

The parties presented evidence before the ZHB in regard to SKP's proposal to expand its restaurant, Petri's Skyline Tavern (hereinafter referred to as "Skyline") by constructing a patio for outdoor dining. SKP is a tenant of a portion of a strip mall shopping center located at the intersection of West Butler Avenue and Skyline Drive in Chalfont, Bucks County, PA. The shopping center property is approximately 7.2 acres. A residential subdivision containing single family homes is adjacent to the rear of the two buildings which comprise the shopping center. SKP filed an application to the ZHB appealing the Township Zoning Officer's Determination of January 10, 2013, which found that the outdoor eating area proposed by SKP constitutes an expansion of an existing non-conforming Shopping Center use, and therefore requires a special exception under the New Britain Township Zoning Ordinance (hereinafter referred to as the "Ordinance"). In the event that the ZHB denied that appeal, SKP requested, in the alternative, that a special exception be granted, pursuant to the Ordinance. On May 28, 2013, the ZHB denied SKP's appeal of the Zoning Officer's Determination, but granted SKP's alternative request for a special exception pursuant to the Ordinance, §§27-2303 and 27-3103. The special exception was granted by the ZHB, subject to each of ten conditions.³

The SKP appeal asserts that the ZHB abused its discretion or committed an error of law in its imposition of conditions, specifically conditions numbered 7 and

³ The imposed conditions, as articulated by the ZHB, consist of the following:

1. The dimensions, location, appearance and use of the proposed outdoor eating area and other required site improvements will be in accordance with the most recent plans, exhibits, diagrams, testimony and representation made at the hearings, except as modified by this Decision.
2. All site improvements shown on the most recent versions of the plans, exhibits and diagrams shall be installed at the Applicant's sole cost and expense prior to the issuance of an occupancy permit, temporary or final, for use of the outdoor eating area.
3. Lighting installed on the outdoor eating area shall be low-level only, as approved by the Township. The lighting proposed on the top of the posts shall be shielded or moved into the post side-walls so as to achieve the maximum shielding.
4. All trash dumpsters shall remain located behind the building. No trash dumpster on the Property may be in a parking space.
5. The rear and side wall, with a roof overhang, of the outdoor eating (area) being installed to buffer the noise shall be of a solid material. Sound-proofing material shall be installed in the roof and walls to the maximum extent practical.
6. Eating service on the outdoor eating area may begin no earlier than 11 a.m.; and the outdoor eating area shall close at 11 p.m. Eating service shall stop at a sufficiently earlier time to enable the outdoor eating area to close and be free of patrons by 11 p.m.
7. No amplified music or other noise shall emanate from the outdoor eating area, or be able to be heard on the outdoor eating area.
8. No televisions of any kind are permitted on the outdoor eating area, nor are any televisions on the interior of the Premises permitted to be visible on the outdoor eating area. "Televisions" include any other device (such as a projection computer or mobile device) that can transmit a video signal to a screen.
9. The Applicant shall submit to the New Britain Township Engineer for approval of a landscape plan for full screen plantings (such as arborvitaes) along the rear of the Property to block visibility of the outdoor eating area from the properties to the rear. The location, length, amount and type of plantings shall be approved by the Township Engineer. The

8. The appeal filed by the Neighbors contends that the ZHB erred as a matter of law by granting the special exception.

Pursuant to 53 P.S. §10908(3) a township is automatically granted party status. The New Britain Township Board of Supervisors (hereinafter referred to as the “Township”) participated at the hearing before the ZHB, and intervened in both appeals. The appellate brief filed on behalf of the Township responded to the issues raised by SKP and the Neighbors. Affirmative support was offered by the Township as to the ZHB’s imposition of conditions 7 and 8, and as to the ZHB’s exercise of discretion in imposing conditions while granting the special exception. However, it is the Township’s contention that SKP did not meet the necessary standards to have been granted a special exception, so the Township urges this Court to reject SKP’s appeal in this respect.

II. BACKGROUND

The facts of the case are predominantly undisputed. SKP currently rents a portion of an existing shopping center, at 241 West Butler Avenue, New Britain Township, Bucks County, tax map parcel 27-13-32, where it operates Skyline⁴. The shopping center is located in the “C-1” commercial zoning district and is a legal non-conforming use of the space, as it was lawfully in existence prior to enactment of the applicable Ordinance provisions regarding the C-1 district. Skyline currently occupies 1,952 square feet, and SKP intends to rent an additional 768 square feet of currently vacant space adjacent to Skyline.⁵ SKP proposes an addition to Skyline consisting of a 1,360 square foot outdoor patio dining space (hereinafter referred to as the “Patio”). The Patio is to be constructed adjacent to the exterior wall, and will be an open deck and sidewalk addition. The Patio will be able to accommodate up to 80 guests at 20 tables, each of which will have four seats. The Patio will be open from 11 a.m. to 11 p.m., with food service ending at 10 p.m.. Along the rear of the Patio, SKP will construct an L-shaped concrete block wall with a pitched roof

plantings do not need to go fully across the rear of the Property, but need to be of sufficient length so that in the opinion of the Township Engineer, the visibility of the outdoor eating area will be screened. Also, the plantings should be as large/tall as possible upon installation to create the most immediate benefit of the screening while at the same time offering the best chance to survive.

10. This decision does not waive any other requirements of any other applicable New Britain Township ordinance; and the proposed use and improvements must meet all applicable Federal, state, county and New Britain Township laws, regulations, ordinances and codes.

⁴ Steven Petri, (hereinafter referred to as “Mr. Petri”) the owner of Skyline, described Skyline as a local non-smoking restaurant, serving family-style food and beverages, licensed by the Pennsylvania Liquor Control Board to sell alcohol. The Neighbors maintain that Skyline is more of a tavern than a restaurant. Although the ZHB rejected the Neighbors’ position, it commented that any determination as to whether Skyline was an eating versus a drinking establishment was immaterial to its decision. Whether or not it should permit expansion of a non-conforming shopping center use was the dispute the ZHB had to address.

⁵ The ZHB found that additional interior space was already dedicated to a non-conforming use and reserved by the property owner for Skyline, and that Skyline could expand into that additional space without any involvement or approval by the ZHB.

to shield it from view of neighboring properties, and to buffer any sounds from the patio. The Patio will be accessed mainly through a door from the existing restaurant. There will be handicapped access directly from the sidewalk. Mr. Petri testified on behalf of Skyline that there would be no live music on the Patio. Skyline wishes to install several televisions in the Patio area.

During the multiple hearings before the ZHB, all parties provided testimony, and additional testimony was provided by expert witnesses. Testimony addressed the effects the Patio would have on the shopping center use, including issues such as sufficiency of parking spaces, dumpster placement throughout the shopping center, and the ability of delivery trucks and patrons' cars to maneuver safely. The more impassioned testimony addressed the effects on the neighboring community.

The SKP appeal contends that the ZHB's imposition of conditions 7 and 8 constitutes an abuse of discretion or an error of law.⁶ The appeal filed by the Neighbors contends that the ZHB erred as a matter of law by granting the special exception. The Township, while suggesting that the ZHB's calculations were erroneous, and that therefore its determination to grant the special exception was erroneous, acknowledges the broad discretion of the ZHB under the law, including its discretion to attach specific conditions along with granting the special exception.

III. STANDARD OF REVIEW

On an appeal from a Zoning Hearing Board decision wherein a trial court takes no additional evidence, such as is the case here, the standard of review is whether the zoning board abused its discretion or committed an error of law in reaching its decision. Moy v. Zoning Hearing Bd. Of Municipality of Monroeville, 912 A.2d 373 (Pa. Cmwlth. 2006). An abuse of discretion can be found only upon a showing that the board's findings are not supported by substantial evidence in the record. Catholic Soc. Servs. Hous. Corp. v. Zoning Hearing Bd. of Edwardsville Borough, 18 A.3d 404 (Pa. Cmwlth. 2011). Substantial evidence is defined as relevant evidence that a reasonable mind might accept as adequate to support a conclusion. Oasis v. Zoning Hearing Bd. of South Annville Tp. 94 A.3d 457, 461 (Pa. Cmwlth. 2014).

In reviewing a record demonstrating substantial evidence, the court is bound by the zoning board's findings which resolve questions of credibility and weigh evidence, and the court may not substitute its own judgment for that of the board. Zoning Hearing Bd. of Sadsbury Township v. Supervisors of Sadsbury Township, 804 A.2d 1274, 1278 (Pa. Cmwlth. 2002). The fact that a record may contain some evidence inconsistent with a board's determination is inconsequential. *See* Montgomery Cross-ing Assocs. v. Twp. Of Lower Gwynedd, 758 A.2d 285, 288 (Pa. Cmwlth. 2000).

It is a well-settled principle of land use law that a zoning hearing board's interpretation of its own municipality's zoning ordinance is entitled to great weight and deference from a reviewing court. The rationale is that the board's interpretation

⁶ See footnote 3, ante, for a verbatim recitation of conditions 7 and 8.

reflects the construction of a statute by an entity possessing knowledge and expertise in interpreting that ordinance, and which is charged with its execution and application. City of Hope v. Sadsbury Twp. Zoning Hearing Bd., 890 A.2d 1137, 1143 (Pa. Cmwlth. 2006) (internal citations omitted).

IV. APPLICABLE LAW

Section 27-2303(a) of the Ordinance mandates that any expansion of a legal non-conforming use requires a special exception. A special exception is a use that is expressly permitted, provided the applicant meets certain enumerated standards. Southdown, Inc. v. Jackson Township Zoning Hearing Board, 809 A.2d 1059, 1064 n. 6 (Pa. Cmwlth. 2002). The factors which are determinative of the granting or refusal of the exception are enumerated in the ordinance itself. The function of the board, when an application for a special exception is made, is to determine whether or not specific facts, circumstances and conditions exist which comply with the standards of the ordinance, and merit the granting of the exception. Broussard v. Zoning Board of Adjustment of City of Pittsburgh, 831 A.2d 764, 769 (Pa. Cmwlth. 2003) (internal citations omitted).

In accordance with Section 27-3103 of the Ordinance, it is the ZHB's responsibility to determine if a special exception meets all of the requirements of the Ordinance and is both "in the best interest of the Township" and "suitable for the property." In order to ensure the aforementioned criteria are met, the board may attach reasonable conditions to its granting of a special exception. In accordance with Section 912.1 of the Pennsylvania Municipalities Planning Code (hereinafter referred to as the "MPC"), a zoning board retains the right to "attach such reasonable conditions and safeguards, in addition to those expressed in the ordinance, as it may deem necessary to implement the purposes of this act and the zoning ordinance." 53 P.S. § 10912.1. "However, the ability to impose a condition on a special exception is not unfettered. Conditions must be reasonable and must find support in the record warranting the imposition of such conditions; otherwise, the imposition of conditions constitutes an abuse of discretion ... [T]he Board is not required to support the imposition of conditions; rather, the opposite is true—property owners are required to show that the imposition of conditions was an abuse of discretion." Coal Gas Recovery, L.P. v. Franklin TP. Zoning Hearing Bd. 944 A.2d 832, 839 (Pa. Cmwlth. 2008).

V. DISCUSSION

The zoning officer concluded, and the ZHB agreed, that the use at issue was that of a "shopping center," and that such use is not permitted in the C-1 zoning district. Hence, the applicant SKP's appeal of that decision by the zoning officer was denied by the ZHB. In order to expand such a use, or any other sub-use, including the outdoor eating area as Skyline proposes, the applicant is required to obtain a special exception from the ZHB. 27-2303(b).

The Ordinance at 27-3103 (a) provides that “the Board shall grant a special exception only if it finds adequate evidence that any proposed development submitted will meet all of the following general requirements as well as any specific requirements and standards listed[in the Ordinance] for the proposed use.”

27-3103(a) provides the applicable general criteria, and requires that the proposed use and location be:

- a. in accordance with the New Britain Township Comprehensive plan and consistent with the spirit, purposes and intent of [the Ordinance];
- b. in the best interests of [New Britain] Township, the convenience of the community, the public welfare and be substantial improvement to the property in the immediate vicinity;
- c. suitable for the property in question and designed, constructed and operated and maintained so as to be in harmony with and appropriate in appearance to the existing or intended character of the general vicinity;
- d. in conformance with all applicable requirements of [the Ordinance];
- e. suitable in terms of effects on highway traffic and safety with adequate access arrangements to protect streets from undue congestion and hazard; and
- f. in accordance with sound standards of subdivision practice where applicable.

27-3103(b) provides the specific criteria applicable to the extension of a non-conforming use and requires that the extension must meet the following requirements:

- a. The proposed extension shall conform with the setback, yard, area, dimensional, building height, parking, sign, environmental and other requirements of the district in which the extension is located; and
- b. Any increase in building or floor area shall not exceed an aggregate of more than 50% of the building volume or floor area, whichever is less, existent at the date the use became non-conforming.

The Commonwealth Court has articulated the general principles by which municipalities are to be guided in ascertaining whether or not to allow special exceptions: “Initially, we recognize that a special exception is not an exception to a zoning ordinance but, rather, is a conditionally permitted use, allowed by the legislature if specifically listed standards are met. Application for a special exception is to be granted or denied by the ZHB pursuant to the express standards and criteria set forth in the applicable zoning ordinance. Thus, what an applicant must demonstrate to obtain a special exception is determined on a case-by-case basis and will vary among municipalities based upon the use requested and the language in the ordinance. Once the applicant for a special exception meets his initial burden of showing compliance with all the objective requirements of the zoning ordinance, it is presumed that the proposed use is consistent with the promotion of local concerns

relating to general health, safety and welfare, and, normally, the burden then shifts to any objectors to prove that the proposed use is, in fact, detrimental to the health, safety and general welfare of the community.” Elizabethtown/Mt. Joy Associates, L.P. v. Mount Joy Tp. Zoning Hearing Bd. 934 A.2d 759, 764 (Pa. Cmwlth. 2007) (internal citations omitted).

In the instant matter, the ZHB found that SKP presented sufficient evidence to meet the criteria of the Ordinance and that the evidence presented by objecting/protesting parties was insufficient to demonstrate that the proposed outdoor eating area would be detrimental to the public interest, health, safety and welfare of the community. SKP’s evidence in support of its application included the testimony of Robert Showalter, a registered professional engineer. The ZHB found Mr. Showalter’s testimony comprehensive and credible.

The Neighbors presented the testimony of Steven Ware, a land planner, and Mark Mayhew, P.E., a civil engineer. The ZHB found that the testimony of these experts was either not credible, or was insufficient to support the argument that the proposed outdoor eating area would substantially and adversely affect the health, safety, and welfare of users of the Skyline property or users of the adjoining neighborhood properties. For example, Mr. Ware testified that a “transition district” should exist between the shopping center and the adjacent neighborhood. The ZHB noted that the shopping center and adjoining residential development “have co-existed for over 40 years,” and that nothing proposed by SKP would have an adverse impact on this relationship. Additionally, the ZHB found that the testimony of Mr. Mayhew regarding the nearby neighbors and impact on their quality of life was not supported by evidence which established that the outdoor eating patio would create or exacerbate any hazards.

The ZHB concluded that SKP is entitled to the special exception, subject to each of ten conditions. SKP was granted its application seeking the proposed eating area and expanded Shopping Center use, the ZHB finding such use would be consistent with the best interests of New Britain Township, the convenience of the community, and public welfare. The ZHB further determined that it would be a substantial improvement to the property in the immediate vicinity.

A. SKP’S APPEAL

The SKP appeal of the decision of the ZHB specifically asserts that the ZHB abused its discretion as to the imposition of conditions 7 and 8, prohibiting the use of amplified music and televisions in the patio area. See footnote 3, ante. SKP did not object to imposition of the other conditions. SKP asserts that the disputed conditions 1) do not bear a reasonable relationship to the health, safety, morals or general welfare of the community; 2) do not relate to a standard in the Zoning Ordinance or the MPC; 3) are not supported by evidence of record; and 4) would have an unreasonable and detrimental impact on the business to be conducted on the Patio. Therefore, SKP maintains that the ZHB abused its discretion by imposing these conditions not otherwise supported by the evidence in the record.

SKP relies on Good v. Zoning Hearing Bd. of Heidelberg, 967 A.2d 421, 430 (Pa. Cmwlth. 2009) for the proposition that conditions imposed may not be so onerous as to bar the proposed use, nor may broad policy statements form the basis for the imposed conditions. Good at 430, *citing* Ethan-Michael, Inc. v. Bd. of Supervisors of Union Twp., 918 A.2d 203 (Pa. Cmwlth. 2007). SKP maintains that condition 7 regarding amplified music is vague in that there is no standard by which compliance could be gauged, and additionally, maintains that the language within the condition that no music or other noise shall emanate would suggest that patrons will not even be permitted to listen to radio. In submitting that this is an unreasonable and virtually impossible condition with which to comply, SKP relies on Mignatti Construction Company, Inc. v. Bucks County Zoning Hearing Bd., 281 A.2d 355, 361 (Pa. Cmwlth. 1971), wherein the Court stated “[c]ertainly a property owner has a right to generate some noise in the lawful use of his property even though the noise may transcend his own property lines.” SKP asserts that while it has agreed that no live music will be played on the Patio, the record does not otherwise support such a broad and unreasonable prohibition as to “other noise”.

As to condition 8, SKP maintains that the Ordinance does not prohibit television from being installed for the viewing pleasure of its patrons using the Patio. Mr. Petri testified that based on the addition of the Patio, the installation of the televisions is essential to the success to be realized by his business. SKP maintains that the ZHB abused its discretion in determining that televisions are not essential to SKP’s proposed use of the Patio because 1) SKP provided testimony to confirm televisions are essential to the successful use of the Patio; 2) there was no testimony presented by anyone to contradict SKP’s testimony; and 3) such a conclusion is a business matter outside the purview of the ZHB.

SKP maintains that the ZHB’s conditions in question render the Patio commercially useless. SKP further maintains that there was no testimony of record supporting the ZHB’s conclusion that most of the potential noise on the Patio would be generated by televisions, and asserts that even the Neighbors acknowledge that the noise from televisions could be monitored and controlled. As to the concern raised at the hearings regarding possible distraction to motorists passing by the property, SKP has agreed to modify the proposed locations of the televisions so they would only face inward and not be visible to anyone travelling on the adjacent roadway.

SKP argues that both conditions are excessive, unreasonable and not supported by the record. The ZHB acknowledged that once in operation, the determination of whether or not the Patio is in compliance with the Township’s noise regulations will be governed by the Township’s Noise Ordinance. Therefore, SKP argues, the amount of noise on the Patio does not relate to a standard adopted in the Ordinance, and it is beyond the jurisdiction of the ZHB to legislate additional noise conditions. Furthermore, SKP asserts that the prohibition on noise and televisions does not bear a reasonable relationship to the health, safety, morals or general welfare of the community, because the community is already protected by the Ordinance.

SKP contends that its agreement to comply with the Noise Ordinance, and to install decibel meters to ensure compliance, renders the ZHB-imposed conditions unnecessary and unreasonable.

As to the appeal filed by the Neighbors, SKP maintains that once the ZHB determines a special exception is permitted, the burden shifts to the objector-Neighbors to present evidence that the application will have a detrimental effect on health, safety and welfare, or will conflict with the expressions of general policy contained in the Ordinance. According to SKP, the Neighbors failed to meet their burden here. Oasis v. Zoning Hearing Bd. of South Annville Tp., 94 A.3d 457 (Pa. Cmwlth. 2014)

All of the conditions imposed by the ZHB, including numbers 7 and 8, are designed to limit the negative impact the Patio would have on the neighboring properties, and to ensure that the use of the Patio will not expand to such an extent that it would have a much greater negative impact on the surrounding residential neighborhood than was described at the ZHB hearings. We find that the conditions are reasonable, supported by existing case law, and are based upon evidence in the record, which includes concern about the noise which will be produced by patrons on the Patio. The noise abatement conditions, then, clearly are geared toward protecting health, safety and welfare, and are directly related to the grant of the special exception for the Patio.

Although SKP argues that condition 7 is vague, SKP failed to demonstrate that the condition was not supported in the record or that the ZHB exceeded its powers under the Ordinance or MPC. SKP failed to prove that imposition of the condition effectively prohibits use of the Patio as an outdoor eating area. Likewise, as to the imposition of condition 8, the ZHB was entitled to its credibility finding that televisions are not “essential” to the operation of the Patio, despite Mr. Petri’s testimony asserting otherwise. Additionally, SKP’s assertion that such a determination is a business decision, beyond the purview of the ZHB, is simply incorrect. The MPC specifically empowers zoning hearing boards to make decisions affecting commerce and business, and the statutory scheme permits zoning hearing boards to impose reasonable conditions and safeguards upon the grant of a special exception.

Applying the aforementioned land use principles of law to the factual record here, we find that the ZHB’s decision was based upon substantial evidence of record, and that the ZHB neither abused its discretion nor committed an error of law in the imposition of conditions while granting the special exception, specifically including conditions 7 and 8.

B. NEIGHBORS’ APPEAL

The Neighbors have asserted that the ZHB, in rendering its decision, has erred as a matter of law by 1) granting the special exception; 2) imposing conditions upon the relief requested by SKP; and 3) in determining that SKP had standing to pursue the relief requested.

1) and 2): The ZHB's Grant of the Special Exception with Imposition of Conditions

In support of their asserted appeal issues, the Neighbors rely on the Court's decision in Elizabethtown/Mt. Joy, *supra*, for the proposition that conditions are not to be used to cure a violation of a zoning ordinance. In Elizabethtown/Mt. Joy, the Court affirmed the zoning hearing board, explaining that [t]he proper function of conditions is to reduce the adverse impact of a use allowed under a special exception, not to enable the applicant to meet his burden of showing that the use which he seeks is one allowed by the special exception. "Where the applicant fails to meet all of the ordinance requirements for a special exception, we have long held that the [zoning hearing board] properly denies the application. *Id.* at 768 (internal citation and footnote omitted)."

The Neighbors reliance on Elizabethtown/Mt. Joy in reference to the instant case is misguided, as the facts of that case are significantly distinguishable. In Elizabethtown/Mt. Joy, the zoning hearing board found that the applicant's plan contained numerous "deficiencies and inconsistencies" and cited examples of insufficient evidence. Testimony was found to demonstrate what "could" be done, as opposed to what "would" be done. The zoning hearing board found that "no real plan" was presented, noting the developer's evidence "suffered from a variety of problems." In the instant matter, the ZHB concluded that "the Applicant is entitled to the requested special exception, as the proposed outdoor eating area satisfies the general and specific criteria for a special exception under the Zoning Ordinance."

Here the record was devoid of the types of inadequacies described in Elizabethtown/Mt. Joy. Finding no abuse of discretion or error of law on the part of the ZHB in determining that SKP satisfied the specific and general requirements of the relevant Ordinance, and is therefore entitled to the special exception for which it applied, we deny the Neighbors' appeal as to this issue. In conjunction with this finding, as we addressed in our earlier discussion as to the ZHB's right to impose reasonable conditions, the Neighbors' appeal asserting an abuse of discretion or error of law in the ZHB's imposition of said conditions is denied.

3) Standing of SKP

The Neighbors assert that SKP should not have been permitted by the ZHB to include the 768 square feet of adjacent vacant space which it intends to rent, and that in the absence of that improper allowance by the ZHB, SKP would not control sufficient square footage within the shopping center to allow for the proposed expansion, as prescribed by the Ordinance. Specifically, § 27-2303(b)(3) of the Ordinance provides:

(b) A use that does not conform with the use regulations of the district in which it is located may be extended by special exception provided that:

(3) Any increase in the building or floor area shall not exceed an aggregate of more than 50% of the building volume or floor area, whichever

is less, existent at the date the use became non-conforming under this or previous ordinances, during the life of the non-conformity, and in any event, shall be permitted only by special exception under the provisions of this Chapter...

In its application, SKP contended that the existing restaurant consisted of 2,720 square feet. Assuming that to be accurate, the proposed Patio expansion of 1,360 square feet is in compliance with the Ordinance requirement that allowable expansion not exceed 50 percent of the existing building floor area. Without incorporation of the 768 square feet of vacant space, SKP's 1,360 square foot expansion proposal exceeds the 50 percent allowable by the use regulations.⁷

The Neighbors maintain on appeal that SKP did not present sufficient evidence to support incorporation of the vacant space in SKP's proposal. Indeed, applicant SKP only presented Exhibit A-9, a letter from the landlord of the shopping center, permitting SKP to submit its application to the ZHB. The Neighbors assert that Exhibit A-9 does not constitute sufficient evidence, in that it does not prove that the vacant 768 square feet is currently part of the restaurant. The Neighbors argue that there is no proof that the vacant portion is currently under lease, and there is no evidence that SKP intends to expand, and that therefore the proper square footage considered in SKP's application for expansion should have been limited to the actual footprint of the bar/restaurant as of the date of the application. The Neighbors argue that given all of these shortcomings in evidence, the ZHB wrongfully allowed for the inclusion of the vacant space in the square footage calculation, in violation of §27-2303(b)(3).

The ZHB concluded, based on testimony presented by SKP and the written submission of the shopping center owner, Chalfont Plaza, that SKP met the standard of the MPC §913.3.⁸ The ZHB further concluded that Chalfont Plaza met the definition of a landowner, SKP met the definition of an existing tenant, and that the written permission of Chalfont Plaza found in Exhibit A-9 met the MPC standards for requesting a special exception. Importantly, the owner's authorization letter states that SKP will not proceed with construction of the Patio until it enters into an amended lease to allow for the expansion, including the 768 square feet of now-vacant space. Mr. Petri, on behalf of SKP, testified as to his intention to expand into the vacant space; however, that expansion was directly contingent upon whether the special exception was to be granted. Accordingly, the ZHB properly found this vacant space to already have been "dedicated" to a non-conforming use by SKP as of the time of its application for a special exception. The ZHB's treatment of the vacant area, then, was based upon common sense and practical considerations, and did not constitute an abuse of discretion.

⁷ Given its present size of 1,952 square feet, the restaurant's allowable expansion, per the Ordinance, should not be in excess of 976 square feet unless the vacant space is added to the present size calculation.

⁸ §913.3 states, in relevant part: "Requests for ... special exceptions under 912.1 may be filed with the board by the landowner or any tenant with the permission of such landowner." 53 P.S. §10913.3.

The Neighbors assert that the ZHB's determinations are inconsistent, because some of the concerns or proposals suggested by the experts were adopted as findings of fact, conclusion of law, and/or were imposed as conditions, although the ZHB claimed that the experts were not credible. The Neighbors suggest that the ZHB cannot "have it both ways," and that the ZHB's reliance on some suggestions of the experts substantiates that the experts provided sufficient and competent evidence in all respects.

The Neighbors cite, for example, their expert civil engineer Mr. Mayhew's testimony regarding the parking configuration and layout changes required to be made. The ZHB found the conditions were "pre-existing," despite Mr. Mayhew's testimony that certain issues did not exist "but-for" the proposed expansion. The Neighbors assert the ZHB has improperly "cherry-picked" provisions with which it sought SKP's compliance, relying on the experts as to some issues, and ignoring the experts as to other issues.

As it was determined by the ZHB that SKP met its burden of proof and persuasion in establishing that the proposed expansion satisfied the general and specific requirements of the Ordinance, the burden then shifted to the objecting parties to present evidence and persuade the ZHB that the proposed use would violate the health, safety and welfare of the community. "Determinations as to the credibility of witnesses and the weight to be given to the evidence are matters left solely to the Board in the performance of its factfinding role." Pennsy Supply, Inc. v. Zoning Hearing Bd. of Dorrance Tp. 987 A.2d 1243, 1250 -1251 (Pa. Cmwlth. 2009).

There is no evidence of record which supports a finding that the ZHB abused its discretion or committed an error of law. On appeal, the Neighbors apparently suggest that once an expert is qualified as such, his or her testimony must be deemed credible in all respects. There is no legal basis for such an assertion, and the ZHB was within its authority to make determinations as to the experts' credibility, in whole or in part. It is common sense and well within common experience that fact-finders often and appropriately determine that witnesses, whether lay or expert, are credible as to certain portions of their testimony, and lack credibility as to other portions.

The ZHB found the record devoid of persuasive evidence that the proposed use was detrimental to the public interest, or that there existed a high degree of probability that the Patio would substantially and adversely affect the health, safety, and welfare of the users of the restaurant property or adjoining properties. The ZHB further found that neither of the experts presented by the Neighbors cited new or existing hazards which would be exacerbated by the Patio. The ZHB found that the Neighbors' quality of life concerns were issues of "everyday life," and that the proposed Patio would not render any matters "worse."⁹

⁹ We are cognizant, as SKP notes at footnote 3 in its brief, of the Neighbors' references to some facts not in the record, and of the lack of citations to the record in the Neighbors' brief. See, New London Oil Co. v. Ziegler, 485 A.2d 1131 (1984) ("a reviewing court may not consider facts not of record set forth in a party's brief.") This Court completed its own comprehensive review of the record before rendering our rulings.

C. THE APPEAL OF NEW BRITAIN TOWNSHIP, INTERVENOR

The Township seeks to overturn the ZHB's grant of a special exception to SKP, arguing that it was inappropriate for the ZHB to aggregate Skyline's existing square footage with its future lease of additional footage in calculating the permitted expansion, pursuant to the Ordinance. For reasons previously detailed, we find that the ZHB's determination complied with land use law and with common sense practicality.

The Township's brief requests that if we uphold the ZHB's grant of a special exception here, we also uphold the conditions imposed by the ZHB which have been challenged on appeal. We do so, for reasons previously explained.¹⁰

¹⁰ We note with approval the following language from the Township's brief: "Common sense dictates that prohibiting the use of speakers and televisions on the Patio will minimize the possible negative impacts this Patio will have on the neighborhood while not greatly impacting the utility of this Patio as an outdoor eating area."

II. CONCLUSION

In sum, for all of the foregoing reasons, we are satisfied, based upon our review of the record, that the ZHB's decisions were based upon substantial and credible evidence, and that the ZHB neither abused its discretion nor committed an error of law. We therefore enter the following:

ORDER

AND NOW, this 10th day of October, 2014, upon consideration of the appeals filed by SKP Enterprises, LLC and Eileen and James Domanico, Maryanne Domanico, Audrey Raffle and Adam Weisbaum, as well as the appeal filed by the New Britain Township Board of Supervisors, from the May 28, 2013 written decision of the New Britain Township Zoning Hearing Board, it is hereby ORDERED and DECREED as follows:

1) The Decision of the New Britain Township Zoning Hearing Board, including the grant of a special exception to SKP subject to each of ten delineated conditions, is AFFIRMED. Accordingly, SKP's appeal objecting to the imposition of conditions 7 and 8 is DENIED.

2) The appeal of the Neighbors is DENIED.

3) The appeal of the Township is DENIED to the extent that it seeks to overturn the ZHB's grant of a special exception to SKP.

BY THE COURT:
/s/Gary B. Gilman
GARY B. GILMAN, J.

Change of Name

IN THE COURT OF COMMON
PLEAS OF BUCKS COUNTY
CIVIL ACTION – LAW
NO. 2014-08028-30

NOTICE IS HEREBY GIVEN THAT the Petition for the Change of Name has been filed in the above named Court, praying for a Decree to change the name(s) of **JULKER ALDEBOL** to **JULIE ALDEBOL**.

The Court has fixed the 30th day of January, 2015 at 10:00 A.M. in Courtroom No. 430, Bucks County Courthouse, Doylestown, Pennsylvania, as the time and place for the hearing of said Petitioner, when and where all persons interested may appear and show cause, if any they have, why the prayer of said Petition should not be granted.

Jan. 15

IN THE COURT OF COMMON
PLEAS OF BUCKS COUNTY
CIVIL ACTION – LAW
NO. 2014-07412-30

NOTICE IS HEREBY GIVEN THAT the Petition for the Change of Name has been filed in the above named Court, praying for a Decree to change the name(s) of **DAULTON GARON CHRISTMAN** to **DAULTON GARON DeFELICE**.

The Court has fixed the 30 day of January, 2015 at 10:00 a.m. in Courtroom No. 430, Bucks County Courthouse, Doylestown, Pennsylvania, as the time and place for the hearing of said Petitioner, when and where all persons interested may appear and show cause, if any they have, why the prayer of said Petition should not be granted.

Jan. 15

IN THE COURT OF COMMON
PLEAS OF BUCKS COUNTY
CIVIL ACTION – LAW
NO. 2014-08531

NOTICE IS HEREBY GIVEN THAT the Petition for the Change of Name has been filed in the above named Court, praying for a Decree to change the name(s) of **DEBORAH GALE CHRISTOPHER** to **DEBORAH GALE THOMPSON**.

The Court has fixed the 30th day of January, 2015 at 10:00 a.m. in Courtroom No. 430, Bucks County Courthouse, Doylestown,

Pennsylvania, as the time and place for the hearing of said Petitioner, when and where all persons interested may appear and show cause, if any they have, why the prayer of said Petition should not be granted.

Mark P. Albright, Solicitor
Counsel for Petitioner
403 Main Street
Hellertown, PA 18055-1721
(610) 597-2160

Jan. 15

IN THE COURT OF COMMON
PLEAS OF BUCKS COUNTY
CIVIL ACTION – LAW
NO. 2014-08512

NOTICE IS HEREBY GIVEN THAT the Petition for the Change of Name has been filed in the above named Court, praying for a Decree to change the name(s) of **YANG CHUNRU** also known as **YANG CHUN RU** to **MADISON RU DANFIELD**.

The Court has fixed the 30th day of January, 2015 at 10:00 a.m. in Courtroom No. 430, Bucks County Courthouse, Doylestown, Pennsylvania, as the time and place for the hearing of said Petitioner, when and where all persons interested may appear and show cause, if any they have, why the prayer of said Petition should not be granted.

Dianne C. Magee, Solicitor
Grim, Biehn & Thatcher
Attorneys for Petitioner
104 South Sixth Street
P.O. Box 215
Perkasie, PA 18944

Jan. 15

IN THE COURT OF COMMON
PLEAS OF BUCKS COUNTY
CIVIL ACTION – LAW
NO. 07314

NOTICE IS HEREBY GIVEN THAT the Petition for the Change of Name has been filed in the above named Court, praying for a Decree to change the name(s) of **NOLAN WILLIAM JAHR** to **NOLAN WILLIAM WOJCIECHOWSKI**.

The Court has fixed the 10th day of February, 2015 at 9:30 a.m. in Courtroom No. 360, Bucks County Courthouse, Doylestown, Pennsylvania, as the time and place for the hearing of said Petitioner, when and where all persons interested may appear and show

cause, if any they have, why the prayer of said Petition should not be granted.

Jan. 15

IN THE COURT OF COMMON
PLEAS OF BUCKS COUNTY
CIVIL ACTION – LAW
NO. 2014-06377-30

NOTICE IS HEREBY GIVEN THAT the Petition for the Change of Name has been filed in the above named Court, praying for a Decree to change the name(s) of **ROLAND KONRAD V. MALLARE** to **KONRAD KALE**.

The Court has fixed the 30th day of January, 2015 at 10:00 a.m. in Courtroom No. 430, Bucks County Courthouse, Doylestown, Pennsylvania, as the time and place for the hearing of said Petitioner, when and where all persons interested may appear and show cause, if any they have, why the prayer of said Petition should not be granted.

Jan. 15

IN THE COURT OF COMMON
PLEAS OF BUCKS COUNTY
CIVIL ACTION – LAW
NO. 2014-07743-33

NOTICE IS HEREBY GIVEN THAT the Petition for the Change of Name has been filed in the above named Court, praying for a Decree to change the name(s) of **ANNA FRANCES MORRISON** to **ALEXANDER FRANCIS MORRISON**.

The Court has fixed the 26 day of January, 2015 at 9:00 a.m. in Courtroom No. 460, Bucks County Courthouse, Doylestown, Pennsylvania, as the time and place for the hearing of said Petitioner, when and where all persons interested may appear and show cause, if any they have, why the prayer of said Petition should not be granted.

Jan. 15

Charter Application

NOTICE IS HEREBY GIVEN THAT Articles of Incorporation have been filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, for the purpose of obtaining a Certificate of Incorporation pursuant to the provisions of the Pennsylvania Business Corporation Law

of 1988, approved December 21, 1988, P.L. 1444, No. 177, effective October 1, 1989, as amended.

BRIAN MILLMAN CO., INC. has been incorporated under the provisions of the Pennsylvania Business Corporation Law of 1988, as amended.

Aaron Finestone, Solicitor
P.O. Box 22392
Philadelphia, PA 19110

Jan. 15

Diversified Mechanical Repair, Inc. has been incorporated under the provisions of the Pennsylvania Business Corporation Law of 1988, as amended.

Scott A. Petri, Solicitor
Begley Carlin & Mandio, LLP
680 Middletown Boulevard
Langhorne, PA 19047
(215) 750-0110

Jan. 15

DRC, Inc. has been incorporated under the provisions of the Pennsylvania Business Corporation Law of 1988, as amended.

Jan. 15

JRHBN, LTD. has been incorporated under the provisions of the Pennsylvania Business Corporation Law of 1988, as amended.

Dennis P. Sheehan, Solicitor
106 West Front St.
Suite 103
Media, PA 19063

Jan. 15

Charter Application Limited Liability Company

NOTICE IS HEREBY GIVEN THAT a Certificate of Organization has been filed with the Department of State of the Commonwealth of Pennsylvania, pursuant to the provisions of the Pennsylvania Limited Liability Act of 1994 for the following limited liability company:

Deluxe Carpentry LLC has filed a Certificate of Organization under the provisions of the Pennsylvania Limited Liability Company Law of 1994.

Jan. 15

PIECES MAKE PROGRESS, LLC has filed a Certificate of Organization under the provisions of the Pennsylvania Limited Liability Company Law of 1994.

Gerald L. Bowen, Jr., Solicitor

530 Street Road

P.O. Box 572

Southampton, PA 18966

Jan. 15

Charter Application Nonprofit

NOTICE IS HEREBY GIVEN THAT Articles of Incorporation have been filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, for the purpose of obtaining a Certificate of Incorporation pursuant to the Pennsylvania Nonprofit Corporation Law of 1988, as amended.

The name of the corporation is **LONGVIEW FOUNDATION**.

The Articles of Incorporation (filing date) December 23, 2014.

Jan. 15

Corporate Dissolution

Pursuant to the requirements of the Pennsylvania Business Corporation Law of 1988, as amended, notice is hereby given that **Three Screen Games Inc.**, is currently in the process of voluntarily dissolving.

Jan. 15

Estate Notice

Notice is hereby given that in the estates of the decedents set forth below the Register of Wills has granted letters testamentary or of administration to the person named. All persons having claims or demands against said estates are requested to make known the same, and all person indebted to said estates are requested to make payment without delay, to the executors or administrators or their attorneys named below.

First Publication

COHEN, ALAN, dec'd.

Late of the Township of Bensalem, Bucks County, PA.

Executrix: **LEONA COHEN** c/o George P. O'Connell, Esquire, 2444 Huntingdon Pike, Huntingdon Valley, PA 19006.

Attorney: **GEORGE P. O'CONNELL**, Howland, Hess, Guinan, Torpey, Cassidy & O'Connell, LLP, 2444 Huntingdon Pike, Huntingdon Valley, PA 19006.

COOMBE, JEANNE W. a/k/a **JEANNE WARNING**, dec'd.

Late of Doylestown, Bucks County, PA.

Executrix: **CAROYL N. W. SCULL**, 3000 Route 70, Browns Mills, NJ 08015.

Attorney: **MARYBETH McCABE**, 171 South Main Street, Doylestown, PA 18901.

ELLSWORTH, JAMES JOHN, SR. a/k/a **JIM ELLSWORTH, SR.** and **JAMES ELLSWORTH, SR.**, dec'd.

Late of Doylestown, Bucks County, PA.

Executrix: **CATHERINE M. BURKHARDT**, 103 Olde Pilgrim Road, Dublin, PA 18917.

HANNON, RUTH D., dec'd.

Late of Warminster Township, Bucks County, PA.

Executor: **LAWRENCE H. HANNON**, 892 Norristown Road, Warminster, PA 18974.

HARTLEY, SUZANNE a/k/a **SUZANNE J. HARTLEY**, dec'd.

Late of New Britain Township, Bucks County, PA.

Administrator: **GLENN WEISEL** c/o Richard Hale Pratt, Esquire, Pratt, Brett & Luce, P.C., 68 East Court Street, P.O. Box 659, Doylestown, PA 18901-0659.

Attorney: **RICHARD HALE PRATT**.

KLEINOT, BARBARA A. a/k/a **BARBARA ANNA KLEINOT**, dec'd.

Late of Plumstead Township, Bucks County, PA.

Co-Executors: **LINDA C. CLIVER** and **RAYMOND J. KLEINOT**, 1719 Rickert Rd., Perkasio, PA 18944.

MOYER, KATIE A., dec'd.

Late of Doylestown Borough, Bucks County, PA.

Executrix: **MARY (MOLLY) HOWER** c/o Steven A. Cotlar, Esquire, 23 West Court Street, Doylestown, PA 18901.

Attorney: **STEVEN A. COTLAR**, 23 West Court Street, Doylestown, PA 18901.

PLUSCH, ANNE MacFARLAND a/k/a **ANNE M. PLUSCH** and **ANNE PLUSCH**, dec'd.

Late of the Township of Wrightstown, Bucks County, PA.

Executor: **RICHARD M. PLUSCH** c/o Michael J. Saile, Esquire, Saile & Saile LLP, 403 Executive Drive, Langhorne, PA 19047.

Attorney: **MICHAEL J. SAILE**, Saile & Saile LLP, 403 Executive Drive, Langhorne, PA 19047.

RAINES, KAREN M., dec'd.

Late of Levittown, Bucks County, PA.

Administrator: **JODY RAINES**, 3 Bradford Way, Voorhees, NJ 08043.

ROBERTS, BETTY a/k/a **BETTY C. ROBERTS**, dec'd.

Late of 19 Friendly Lane, Levittown, Bristol Twp., Bucks County, PA.

Administrator: **ALVIN W. ROBERTS**, 19 Friendly Lane, Levittown, PA 19055-2122.

Attorneys: **SWARTZ CULLETON PC**.

STABINSKY, MARY H., dec'd.

Late of Newtown, Bucks County, PA.

Executor: **ROBERT STABINSKY**, 249 Clivedon Drive, Newtown, PA 18940.

Attorney: **CHARLES J. CONTURSO**, 63 West Trenton Avenue, Morrisville, PA 19067.

WEAVER, JOHN I. a/k/a **JOHN IRVIN WEAVER**, dec'd.

Late of Lower Makefield, Yardley, Bucks County, PA.

Executrix: **JANE A. WEAVER** c/o Brenden E. Brett, Esquire, 68 East Court St., P.O. Box 659, Doylestown, PA 18901.

Attorney: **BRENDEN E. BRETT**, 68 East Court Street, P.O. Box 659, Doylestown, PA 18901-0659.

WOLCOTT, MADELEINE A. a/k/a **MADELEINE ADRIAN WOLCOTT**, dec'd.

Late of the Borough of Chalfont, Bucks County, PA.

Executrix: **KATHLEEN M. CAMPBELL** c/o Michael A. Klimpl, Esquire, 131 West State Street, P.O. Box 50, Doylestown, PA 18901.

Attorney: **MICHAEL A. KLIMPL**, Antheil, Maslow & MacMinn, LLP, 131 West State Street, P.O. Box 50, Doylestown, PA 18901.

Second Publication

ADCOCK, DALE W., dec'd.

Late of Southampton, Bucks County, PA.

Executors: **DAVID ADCOCK**, 1135 Calvin Road, Huntingdon Valley, PA 19006 and **DEBORAH BRADY**, 2605 O'Neal Circle, Hoover, AL 35226.

Attorney: **WILLIAM DENMARK**, 1700 Market Street, Suite 3100, Philadelphia, PA 19103.

AUNGST, CREON A. a/k/a **PETE**, dec'd.

Late of Manor Circle, Bristol, Bucks County, PA.

Executor: **ROY W. AUNGST**, 693 W. Country Club Dr., Egg Harbor, NJ 08215.

BANCROFT, CHARLES E. a/k/a **CHARLES BANCROFT**, dec'd.

Late of the Township of Falls, Bucks County, PA.

Executor: **CHARLES A.E. BANCROFT** a/k/a **CHARLES A. BANCROFT** c/o Jonathan H. Ellis, Esquire, 261 Old York Road, Suite 200, Jenkintown, PA 19046.

Attorney: **JONATHAN H. ELLIS**, Plotnick & Ellis, P.C., 261 Old York Road, Suite 200, Jenkintown, PA 19046.

BELTRANTE, GEORGE J. a/k/a **GEORGE BELTRANTE**, dec'd.

Late of Bucks County, PA.

Co-Executors: **JOHN BELTRANTE**, 3443 Bleigh Avenue, Philadelphia, PA 19136 and **LILLIAN CLAVIN**, 3405 West Chester Pike, Apt. 502B, Newtown Square, PA 19073.

Attorney: **JOSEPH G. MANIACI**, Maniaci, Ciccotta & Schweizer, 6720 Frankford Avenue, Philadelphia, PA 19135.

BLAKER, EDNA M., dec'd.

Late of the Township of Warminster, Bucks County, PA.

Executor: **WILLIAM M. O'CONNELL, III** c/o George P. O'Connell, Esquire, 2444 Huntingdon Pike, Huntingdon Valley, PA 19006.

Attorney: **GEORGE P. O'CONNELL**, Howland, Hess, Guinan, Torpey, Cassidy & O'Connell, LLP, 2444 Huntingdon Pike, Huntingdon Valley, PA 19006.

BUCKNUM, PAUL J., dec'd.

Late of the Township of Northampton, Bucks County, PA.

Administratrix: **SUSAN BUCKNUM** c/o Leonard L. Shober, Esquire, 308 North Main Street, Suite 400, Chalfont, PA 18914-2714.

Attorney: **LEONARD L. SHOBER**, Shober & Rock, P.C., 308 North Main Street, Suite 400, Chalfont, PA 18914-2714.

CHOPTIANYJ ANNA, dec'd.

Late of Doylestown, Bucks County, PA.

Administrator: **ANDREW**

CHOPTIANY, P.O. Box 8985, Philadelphia, PA 19135.

CONRICODE, MICHAEL V., JR., dec'd.

Late of Warrington Township, Bucks County, PA.

Administratrix: **MARY BETH CONRICODE**, 700 Country Club Lane, Warrington, PA 18976.

Attorney: **CHRISTOPHER P. KELLY**.

DOUGHERTY, DENNIS J. a/k/a **DENNIS DOUGHERTY**, dec'd.

Late of 232 Yankee Road, Quakertown, Richlandtown, Bucks County, PA.

Administratrix: **CHRISTINE A. GELLER**, 702 Crowthers Road, Coopersburg, PA 18036.

ECKERT, MARY J., dec'd.

Late of the Township of Warwick, Bucks County, PA.

Executor: **THE FIRST NATIONAL BANK AND TRUST COMPANY OF NEWTOWN** c/o Mary C. Helf, Esquire, 2700 Kelly Road, Suite 300, Warrington, PA 18976-3624.

Attorney: **MARY C. HELF**, Fox Rothschild LLP, 2700 Kelly Road, Suite 300, Warrington, PA 18976-3624.

FENN, MARY LOU, dec'd.

Late of the Township of Nockamixon, Bucks County, PA.

Executrix: **TINA M. JESIOLOWSKI** c/o Leonard L. Shober, Esquire, 308 North Main Street, Suite 400, Chalfont, PA 18914-2714.

Attorney: **LEONARD L. SHOBER**, Shober & Rock, P.C., 308 North Main Street, Suite 400, Chalfont, PA 18914-2714.

GOSLINE, LORETTA D., dec'd.

Late of the Township of Bristol, Bucks County, PA.

Executors: **BARBARA TOMLINSON**, 3971 Bainbridge Court, Bensalem, PA 19020 and **BARRY R. GOSLINE**, 95 Gable Hill Road, Levittown, PA 19057.

Attorney: **DARRELL M. ZASLOW**, 312 One Oxford Valley, Langhorne, PA 19047.

JUVENAL, JOHN H., JR., dec'd.

Late of Kintnersville, Bucks County, PA.

Administratrices: **DIANE GRABOYES**, 5419 Quentin St., Philadelphia, PA 19128 and **CYNTHIA JUVENAL**, 585 Springfield St., Coopersburg, PA 18036.

LANGMAN, CAROL H., dec'd.

Late of the Township of Doylestown, Bucks County, PA.

Executor: **JEFFREY H. NICHOLAS** c/o Charles Bender, Esquire, 2700 Kelly Road, Suite 300, Warrington, PA 18976-3624.

Attorney: **CHARLES BENDER**, Fox Rothschild LLP, 2700 Kelly Road, Suite 300, Warrington, PA 18976-3624.

LOUX, DENNIS D., SR. a/k/a **DENNIS D. LOUX**, dec'd.

Late of Doylestown Borough, Bucks County, PA.

Executrix: **CYNTHIA VOORHEES** c/o Eastburn and Gray, P.C., 60 East Court Street, P.O. Box 1389, Doylestown, PA 18901-0137.

Attorney: **D. RODMAN EASTBURN**, Eastburn and Gray, P.C., 60 East Court Street, P.O. Box 1389, Doylestown, PA 18901-0137.

MINNICHBACH, ROBERT G., dec'd.

Late of Bristol Township, Bucks County, PA.

Administratrix: **WILMA MINNICHBACH**, 2105 Grant Road, Quakertown, PA 18951.

SEGAL-NEWMAN, ELAINE, dec'd.

Late of the Township of Warminster, Bucks County, PA.

Administratrix: **JACKIE L. BETOF**, 1709 McNelis Drive, Southampton, PA 18966.

STEINER, ETHEL E., dec'd.

Late of the Township of Bensalem, Bucks County, PA.

Executrices: **CAROL AMODIE** and **DREAMA SUE ROGERS** c/o Harvey Abramson, Esquire, 86 Buck Road, Holland, PA 18966.

Attorney: **HARVEY ABRAMSON**, Law Offices of Harvey Abramson, P.C., 86 Buck Road, Holland, PA 18966.

SUTHERLAND, ROBERT A., dec'd.

Late of the Borough of Newtown, Bucks County, PA.

Executrix: **LILLIAN M. SUTHERLAND** a/k/a **LILLIAN M. SUTHERLAND** c/o William J. Benz, Esquire, Lakeside Office Park, Suite 307, Southampton, PA 18966. Attorney: **WILLIAM J. BENZ**, Lakeside Office Park, Suite 307, Southampton, PA 18966.

TYSON, JAMES, dec'd.

Late of the Township of Falls, Bucks County, PA.

Administrator: **TIMOTHY TYSON** a/k/a **TIMOTHY EARL TYSON**, 603 Cedar Street, Apartment 5, Bristol, PA 19007.

Attorney: **DARRELL M. ZASLOW**, 312 One Oxford Valley, Langhorne, PA 19047.

WHIPPS, MARIE M., dec'd.

Late of the Township of Bensalem, Bucks County, PA.

Executors: **RETA M. JENNINGS** and **RICHARD T. JENNINGS** c/o Jacqueline M. Morley, Esquire, 16 B Buck Village Professional Commons, 1200 Bustleton Pike, Feasterville, PA 19053.

Attorney: **JACQUELINE M. MORLEY**, 16 B Buck Village Professional Commons, 1200 Bustleton Pike, Feasterville, PA 19053.

WILLIAMS, DIANNA, dec'd.

Late of the Borough of Langhorne, Bucks County, PA.

Executrix: **LAURA ROTONDI** c/o Edward J. Gilson, Jr., Esquire, 8001 Roosevelt Boulevard, Suite 501B, Philadelphia, PA 19152.

Attorney: **EDWARD J. GILSON, JR.**, Smylie Times Building, 8001 Roosevelt Boulevard, Suite 501B, Philadelphia, PA 19152.

Third and Final Publication

CAISSE, MIRIAM S., dec'd.

Late of Bensalem, Bucks County, PA.

Executor: **MICHAEL S. CAISSE**, 394 Hill Rd., Green Lane, PA 18054.

FELL, KATHERINE HILDRETH a/k/a **KATHERINE H. FELL**, dec'd.

Late of Churchville, Northampton, Bucks County, PA.

Executors: **RONALD W. FELL**, 67 Schoolhouse Rd., Churchville, PA 18966 and **CHARLES L. FELL, JR.**, 1223 Alex Lane, Warwick, PA 18974.

FREUND, PETER H., dec'd.

Late of Bensalem Township, Bucks County, PA.

Executor: **JOSEPH H. WAGNER**, 332 N. Main Street, Doylestown, PA 18901.

Attorney: **JOSEPH H. WAGNER**, 332 N. Main Street, Doylestown, PA 18901.

GERHART, FLORENCE D., dec'd.

Late of Telford Borough, Bucks County, PA.

Administratrix: **ARLENE G. BISHOP**, 474 Godshall Rd., Souderton, PA 18964.

Attorney: **ROBERT G. BRICKER**, Bricker, Landis, Hunsberger & Gingrich, LLP, 114 East Broad Street, P.O. Box 64769, Souderton, PA 18964.

GROSS, MYRA a/k/a **MYRA H. GROSS**, dec'd.

Late of the Township of Warminster, Bucks County, PA.

Executor: **JOHN SIEKIERKA**, 1410 Hampton Road, Yardley, PA 19067.

Attorney: **HENRY A. CARPENTER, II**, 301 Oxford Valley Road, Suite 101B, Yardley, PA 19067.

HUMPHREY, RONALD, dec'd.

Late of Perkasio Borough, Bucks County, PA.

Executrix: **AUDRA DEAN**, 6 South 9th St., Perkasio, PA 18944.

Attorney: **FRANCIS X. BUSCHMAN, JR.**, Buschman & Johnson, 228 North Main Street, Souderton, PA 18964.

INGALLS, PHILIP C., dec'd.

Late of Middletown Township, Bucks County, PA.

Executrix: **HILARY M. INGALLS** c/o Donna J. Wengiel, Esquire, Stuckert and Yates, P.O. Box 70, Newtown, PA 18940.

Attorney: **DONNA J. WENGIEL**, Stuckert and Yates, P.O. Box 70, Newtown, PA 18940.

KALISER, WILLIAM, dec'd.

Late of Philadelphia.

Executrix: **SHARON KALISER**, 223 Redwood Ave., Trenton, NJ 08610.

KENNEDY, MILDRED D., dec'd.

Late of Warminster, Bucks County, PA.

Executrix: **NANCY K. TRIBLEY**, 206 Crestview Dr., Telford, PA 18969.

LEISTER, J. ROBERT a/k/a **JAY ROBERT LEISTER** and **ROBERT J. LEISTER**, dec'd.

Late of Hilltown Township, Bucks County, PA.

Executrix: **PATRICIA M. MADARA** c/o Grim, Biehn & Thatcher, P.O. Box 215, Perkasio, PA 18944.

Attorney: **GREGORY E. GRIM**, Grim, Biehn & Thatcher, 104 South Sixth Street, P.O. Box 215, Perkasio, PA 18944.

MESSINA, ANDREW T., dec'd.

Late of Richboro, Bucks County, PA.

Executor: **ROBERT P. MESSINA** c/o F. Craig La Rocca, Esquire, 800 N. Broad Street, Lansdale, PA 19446.

Attorney: **F. CRAIG LA ROCCA**, 800 N. Broad Street, Lansdale, PA 19446.

METZ, LOIS C. a/k/a **LOIS M. METZ**, dec'd.

Late of Newtown, Bucks County, PA.

Executor: **CHARLES E. METZ, IV**, 101 Meadow View Dr., Newtown, PA 18940.

MYERS, SARA R., dec'd.

Late of Buckingham Township, Bucks County, PA.

Executor: **NEALE A. MYERS, JR.**, 37 Delevan St., Lambertville, NJ 08530.

Attorney: **BRIAN R. KEYES**, 31 N. Sagan Rd., P.O. Box 727, New Hope, PA 18938.

PINKHAM, TIMOTHY JAMES, dec'd.

Late of Trevoise, Bensalem, Bucks County, PA.

Administratrix: **KAREN PINKHAM**, 2406 Buffalo Ave., Trevoise, PA 19053.

Attorney: **DON WILLIFORD**.

PORTER, CARMELA C. a/k/a **MILLIE PORTER**, dec'd.

Late of Quakertown Borough, Bucks County, PA.

Executrix: **JANET H. RADCLIFFE**, 219 Lancaster Court, Quakertown, PA 18951.

SENNER, BARBARA L., dec'd.

Late of Newtown Borough, Bucks County, PA.

Executor: **GLEN T. SENNER**, 2 Gibson Avenue, Mount Holly, NJ 08060.

VISLOSKY, DOROTHY S. a/k/a **DOROTHY SALADNA VISLOSKY**, dec'd.

Late of Falls Township, Bucks County, PA.

Executrix: **MICHELLE VISLOSKY** c/o Stephen I. Baer, Esquire, 1288 Valley Forge Rd., Suite 63, P.O. Box 952, Valley Forge, PA 19482-0952.

Attorney: **STEPHEN I. BAER**.

Fictitious Name

NOTICE IS HEREBY GIVEN, pursuant to the provisions of Act of Assembly, No. 295, effective March 16, 1983, of the filing in the office of the Department of State, of the Commonwealth of Pennsylvania, at Harrisburg, PA on December 1, 2014, for an Application for the conduct of business in Bucks County, Pennsylvania, under the assumed or fictitious name, style or designation of **Jim Ford Trucking**, with a principal place of business at 265 Second Street Pike, #18, Southampton, PA 18966. The name and address of the entity interested in said business is National Logistics Group, LLC, 265 Second Street Pike, #18, Southampton, PA 18966.

Alan D. Silverman, Solicitor

Gold, Silverman, Goldenberg & Binder
1500 JFK Blvd.

Ste. 1506

Philadelphia, PA 19102-9997

Jan. 15

Miscellaneous

NOTICE OF SHERIFF'S SALE
IN THE COURT OF COMMON PLEAS OF
BUCKS COUNTY, PENNSYLVANIA
NO. 2010-07474

BANK OF AMERICA, N.A.

v.

SUSAN P. DOYLE a/k/a **SUSAN P. McGRATH**, IN HER CAPACITY AS ADMINISTRATRIX AND HEIR OF THE ESTATE OF **RAYMOND J. McGRATH** a/k/a **RAYMOND J. McGRATH, SR.**, **RAYMOND J. McGRATH**, IN HIS CAPACITY AS HEIR OF THE ESTATE OF **RAYMOND J. McGRATH** a/k/a **RAYMOND J. McGRATH, SR.**, **RICHARD McGRATH**, IN CAPACITY AS HEIR OF THE ESTATE OF **RAYMOND J. McGRATH** a/k/a **RAYMOND J. McGRATH, SR.**, **NORA A. SCHLEPPY**, IN CAPACITY AS HEIR OF THE ESTATE OF **RAYMOND J. McGRATH** a/k/a **RAYMOND J. McGRATH, SR.**, **RUTH**

OCHOA, IN CAPACITY AS HEIR OF THE ESTATE OF RAYMOND J. McGRATH a/k/a RAYMOND J. McGRATH, SR. and UNKNOWN HEIRS, SUCCESSORS, ASSIGNS AND ALL PERSONS, FIRMS OR ASSOCIATIONS CLAIMING RIGHT, TITLE OR INTEREST FROM OR UNDER RAYMOND J. McGRATH, DECEASED

**NOTICE OF SHERIFF'S SALE
OF REAL PROPERTY**

NOTICE TO: UNKNOWN HEIRS, SUCCESSORS, ASSIGNS AND ALL PERSONS, FIRMS OR ASSOCIATIONS CLAIMING RIGHT, TITLE OR INTEREST FROM OR UNDER RAYMOND J. McGRATH, DECEASED

Being Premises: 156 MAPLE AVENUE, DUBLIN, PA 18917-2406.

Being in DUBLIN BOROUGH, County of BUCKS, Commonwealth of Pennsylvania, 10-003-001-001.

Improvements consist of residential property.

Sold as the property of **SUSAN P. DOYLE, RAYMOND J. McGRATH, RICHARD McGRATH, NORA A. SCHLEPPY, RUTH OCHOA and UNKNOWN HEIRS, SUCCESSORS, ASSIGNS AND ALL PERSONS, FIRMS OR ASSOCIATIONS CLAIMING RIGHT, TITLE OR INTEREST FROM OR UNDER RAYMOND J. McGRATH, DECEASED.**

Your house (real estate) at 156 MAPLE AVENUE, DUBLIN, PA 18917-2406 is scheduled to be sold at the Sheriff's Sale on March 13, 2015 at 11:00 A.M. at the BUCKS County Courthouse, 55 East Court Street, P.O. Box 269, Doylestown, PA 18901, to enforce the Court Judgment of \$234,484.16 obtained by, BANK OF AMERICA, N.A. (the mortgagee), against the above premises.

Phelan Hallinan, LLP
Attorneys for Plaintiff

Jan. 15

**NOTICE OF ACTION IN
MORTGAGE FORECLOSURE
BUCKS COUNTY
COURT OF COMMON PLEAS
Number: 2014-06531**

OneWest Bank N.A., Plaintiff

v.

Frank J. S. Krippel, Known Surviving Heir of Joseph J. Krippel, Deceased Real Owner and Mortgagor and Unknown Surviving Heirs of Joseph J. Krippel, Deceased Mortgagor and Real Owner, Defendants

TO: Unknown Surviving Heirs of Joseph J. Krippel, Deceased Mortgagor and Real Owner

Premises subject to foreclosure: 585 Buck Drive, Fairless Hills, Pennsylvania 19030.

NOTICE

If you wish to defend, you must enter a written appearance personally or by attorney and file your defenses or objections in writing with the court. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you without further notice for the relief requested by the Plaintiff. You may lose money or property or other rights important to you. You should take this notice to your lawyer at once. If you do not have a lawyer, go to or telephone the office set forth below. This office can provide you with information about hiring a lawyer. If you cannot afford to hire a lawyer, this office may be able to provide you with information about agencies that may offer legal services to eligible persons at a reduced fee or no fee.

Lawyer Referral Service
Bucks County Bar Association
135 E. State Street
P.O. Box 300
Doylestown, PA 18901
(888) 991-9922

McCabe, Weisberg & Conway, P.C.
Attorneys for Plaintiff
123 S. Broad St.
Ste. 1400
Philadelphia, PA 19109
(215) 790-1010

Jan. 15

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DELAWARE COUNTY BAR ASSOCIATION CHESTER COUNTY BAR ASSOCIATION
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Bucks County Paralegal Association

The Association was created in 2009 to promote the paralegal profession by encouraging individual excellence in skills and abilities through education and networking. It is an evolving source of support to all members to better serve the legal consumer and the community.

For information about the BCPA, including future meetings and events, please visit our website at www.buckscoparalegals.com or contact us at buckscoparalegals@gmail.com.

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www.shelly-law.com

carol@shelly-law.com • dnurney@shelly-law.com • mborrajo@shelly-law.com