

**ZONING HEARING BOARD OF DOYLESTOWN TOWNSHIP
BUCKS COUNTY, PENNSYLVANIA**

Docket No.: Z-22-23

Applicant: Brixmor Property Group
200 Ridge Pike, Suite 100
Conshohocken, PA 19428

Owners: Tax Parcel No. 09-014-037-002
Kranzco Realty Trust
2424 Ridge Road
Rockwall, TX 75087

Tax Parcel No. 09-014-037-003
KRT Property Holdings, Inc.
c/o Ryan LLC
500 E. Broward Boulevard, Suite 1130
Fort Lauderdale, FL 33394

Subject Property: Tax Parcel No. 09-014-037-002 and 09-014-037-003, which are located at 1745 S. Easton Road, Doylestown Township.

Requested Relief: Applicant seeks to redevelop the Property, informally known as the Barn Plaza shopping center. In so doing, Applicant proposes to redevelop the former theater and Applebee's spaces with six (6) proposed restaurants, four (4) proposed retail shops and one (1) proposed medical office use, along with new and additional signage. Applicant seeks to maintain certain preexisting lawful dimensional nonconformities regarding location of buildings, paving, and buffering, consistent with §175-112.B(4) of the Doylestown Township Zoning Ordinance ("Ordinance"). In addition, or in the alternative, Applicant seeks variances from the bulk dimensional provisions of §175-72.A and §175-21 of the Ordinance to accommodate the new buildings, parking, increased impervious surface coverage, and maintaining existing buffering. Applicant further seeks variances from §175-111.2.F(1) to exceed the number, size, and height of permitted signage; a variance from §175-109.C(3), to permit two (2) proposed pylon signs to be erected on Route 611 with a setback from the street line of 5 feet, instead of the required 10 feet; a special exception under, or a variance from, §175-112.B(3) to exceed the permitted 50% impervious surface coverage; and a variance from §175-16.E(6)(c) to reduce the allowance for drive through vehicle stacking.

**Hearing
History:**

The application was filed in Doylestown Township on November 27, 2023. The hearings were held on December 18, 2023 and January 25, 2024 at the Doylestown Township Building, 425 Wells Road, Doylestown, PA 18901.

Appearances:

Applicant by: Gregg I. Adelman, Esq.
Kaplin Stewart
910 Harvest Drive
Blue Bell, PA 19422

Mailing Date:

March 11, 2024

DECISION

FINDINGS OF FACT:

1. The Zoning Hearing Board of Doylestown Township (“ZHB”) met the requirements of the Zoning Ordinance, the Municipalities Planning Code, and other relevant statutes as to legal notice of the hearing held.

2. The following evidence and witnesses were presented:

ZHB-1: Initial application filed 11/15/2023 with the following attachments:
a. Deed to the Subject Property (08/13/1994) in favor of Kranzco Realty Trust.
b. Deed to the Subject Property (11/25/1992) in favor of KRT Property Holdings, Inc.
c. Plan set three (3) sheets prepared by Langan Engineering, dated 11/10/2023.
d. Schematics and illustration of pylon sign.

ZHB-2: Amended application filed 11/27/2023 with the same attachments as ZHB-1.

ZHB-3: Legal notice of hearings held (12/18/2023 hearing opened and continued to a date certain, to wit, 01/25/2024).

ZHB-4: Three (3) previous Doylestown Township Zoning Hearing Board Decisions pertaining to the Subject Property.
a. 02/26/1987 (granting sign relief).
b. 06/19/1987 (denying sign relief).
c. 12/29/2006 (granting a variance for natural resources in relation to redeveloping adjacent parcel).

ZHB-5: Continuance request and waiver related to 12/18/2023 hearing.

- A-1: Amended application dated 11/21/2023 (duplicate of ZHB-2)
- A-2: *Curriculum Vitae* Brian Conlon, P.E. (Project Engineer)
- A-3: Aerial of Existing Conditions
- A-4: Zoning Plan
- A-5: Conceptual Renderings and Elevations
- A-6: Overlay of Zoning Plan and Existing Plan
- A-7: Comparison: Proposed vs. Existing Pylon Sign
- A-8: Proposed Pylon Sign Design

Witnesses:

Brian Conlon, P.E., Langan Engineering (Project Engineer)

Bill Greimel, Vice President Re/Development, Brixmor Property Group

3. The Applicant is Brixmor Property Group (200 Ridge Pike, Suite 100, Conshohocken, PA 19428). The Owner of Tax Parcel No. 09-014-037-002 is Kranzco Realty Trust, 2424 Ridge Road, Rockwall, TX 75087 (“Kranzco”). The Owner of Tax Parcel No. 09-014-037-003 is KRT Property Holdings, Inc., c/o Ryan LLC, 500 E. Broward Boulevard, Suite 1130, Fort Lauderdale, FL 33394 (“KRT”). The Applicant is the parent/operating company of Kranzco and KRT, and therefore is possessed of the requisite standing to make application to this Board.

4. The Subject Property is located in the C-2, Commercial Zoning District of Doylestown Township. The Property consists of two (2) parcels and is comprised of approximately 31.043 +/- total acres of land at 1745 S. Easton Road in Doylestown Township (Tax Parcel Nos. 09-014-037-002 and 09-014-037-003) (“Property”). The Property is commonly known as the “Barn Plaza” shopping center.

5. Applicant seeks to redevelop the property, informally known as the Barn Plaza shopping center. In so doing, Applicant proposes to redevelop the former theater and Applebee’s spaces with six (6) proposed restaurants, four (4) proposed retail shops and one (1) proposed medical office use, along with new and additional signage. Applicant seeks to maintain certain preexisting lawful dimensional nonconformities regarding location of buildings, paving, and buffering, consistent with §175-112.B(4) of the Doylestown Township Zoning Ordinance (“Ordinance”). In addition, or in the alternative, Applicant seeks variances from the bulk dimensional provisions of §175-72.A and §175-21 of the Ordinance to accommodate the new buildings, parking, increased impervious surface coverage, and maintaining existing buffering. Applicant further seeks variances from §175-111.2.F(1) to exceed the number, size, and height of permitted signage; a variance from §175-109.C(3), to permit two (2) proposed pylon signs to be erected on Route 611 with a setback from the street line of 5 feet, instead of the required 10 feet; a special exception under, or a variance from, §175-112.B(3) to exceed the permitted 50% impervious surface coverage; and a variance from §175-16.E(6)(c) to reduce the allowance for drive through vehicle stacking.

6. Applicant described the existing parcel and the existing development thereon, including the previous use as the Barn Cinema Theater. The Property has a number of preexisting dimensional nonconformities. In redeveloping the Property, Applicant has attempted to reuse existing building footprints and parking areas so as to reuse existing nonconformities where possible and request the least additional variance from the Ordinance as possible.

7. Applicant did address the fact that the Property consists of two lots. The Ordinance requires a shopping center to be located on one lot and not subdivided. Applicant indicated that the existing two lot condition is essentially a “financial” subdivision, and as a result of certain financing circumstances, Applicant would not be in a position to merge the two lots.

8. The existing theater structure is nonconforming as to rear yard setback. The building is setback at 36.1 feet from the rear lot line. The proposed medical office building is setback at 35.4 feet and the proposed Restaurant E/Retail D/Restaurant F building is setback at 52 feet. The required rear yard setback under §175-72.A(5)(c) is 75 feet.

9. The existing front paving setback for the Property is nonconforming at 5.5 feet. The proposed front paving at the new curb line is 13.2 feet and the proposed minimum front paving setback is 5.9 feet at the existing curb line. The existing rear paving setback is nonconforming at 8.3 feet and will remain. Under §175-23.C(13) of the Zoning Ordinance, the required front, rear and side yards for nonresidential uses may be utilized for the sole purpose of locating parking and accessways thereto to the extent of 50% in distance from the ultimate right-of-way or lot line, except that the parking areas may not occupy the 50% in distance closest to the ultimate right-of-way or lot line. Within the C-2 District only, parking areas may occupy a required rear yard up to 10 feet from the lot line, provided that the use or district does not abut a residential use or residential district; or there is no buffer required pursuant to § 175-21 for the C-2 use.

10. The existing minimum residential buffer is nonconforming at 8.3' and will remain in the Proposed Redevelopment. §175-21.0 of the Zoning Ordinance requires a 30-foot buffer.

11. The existing spaces for the theater parcel are 10' x 18'. §175-23.A.(2) of the Zoning Ordinance permits a theater use in the C-2 Zoning District to reduce the total length of the parking space size from 20 feet to 18 feet for 50% of the total spaces required for the theater use. Parking space width of 10 feet shall be required, however, for all spaces. §175-23.A.(1) of the Zoning Ordinance requires all parking spaces to be 10' x 20'.

12. §175-111.2.F.(1) of the Zoning Ordinance permits one pylon sign along each street frontage of a property. Here, there are two (2) lots, one with frontage on Almshouse Road and Route 611 and the other with frontage on Route 611. Therefore, under §175-111.2.F.(1), a total of three (3) pylon signs are permitted. Currently, there are three (3) pylon signs for the shopping center (two (2) are existing shopping center pylon signs (one (1) on Almshouse Road and one (1) on Route 611) and one (1) Regal Cinema pylon sign on Route 611. However, both of the Route 611 pylon signs are located on the same lot, which is nonconforming. The Applicant proposes to replace the three (3) existing pylon signs. The proposed pylon signs are 30' in height with approximately 300 square feet of signage on each face, approximately 240 square feet of which identifies tenants in the shopping center and approximately 60 square feet of which identifies the shopping center. The maximum sign area for each face under §175-111.2.F of the Zoning Ordinance is 250 square feet.

13. §175-109.C(3) of the Zoning Ordinance requires all signage to be setback from the street line the greater of ten (10) feet of the distance of the height of the sign. The existing pylon sign on Almshouse Road is setback 26.9' feet from the street or property line. The proposed pylon sign on Almshouse Road will maintain that setback. The two (2) proposed pylon signs to be erected on Route 611 will be setback 5' from the street or property line.

14. The existing impervious surface coverage on the Property is 73.1%. §176-72.A(3) of the Zoning Ordinance permits a maximum impervious of 50%. Applicant seeks a special exception under §175-112.B(3) of the Zoning Ordinance or a *de minimis* variance to increase the total impervious coverage by 0.8% to permit a maximum impervious surface coverage of 73.9%.

15. The Zoning Hearing Board is not clear on how Applicant obtained permission to produce 73.1% impervious. A variance will be needed to obtain authority to produce 73.9% impervious surface coverage.

16. Applicant seeks a variance from §175-16.E(6)(c) of the Zoning Ordinance to permit 9 cars in a drive-thru/in stacking lane (for proposed Restaurants B & D) where a minimum of 10 cars is required.

17. Applicant's Exhibit A-4, the Existing Aerial Conditions for the Barn Cinema Property (Figure 1) and the surrounding area including the Barn Cinema Property (Figure 2) illustrate how the existing buildings and nonconformities are reflected on the Subject Property. Applicant points out that the self-storage building located along Route 611 north of the existing theater is actually closer to Route 611 than the existing theater building. See Exhibit A-4.

18. With regard to parking, Applicant indicated that the existing building coverage is 237,688 square feet requiring 1,494 parking spaces, where the proposed application provides 237,132 square feet of building coverage requiring a corresponding 1,465 parking spaces. Applicant complies with the reduced number of parking spaces based upon the square footage calculation, in large part because the theater use required a greater number of parking spaces.

19. Applicant provided renderings of the proposed buildings (Exhibit A-5). Applicant superimposed the proposed buildings onto the Redevelopment Zoning Plan prepared by Langan Engineering to reflect the retaining of certain nonconformities and the additional minor deviations from the Zoning Ordinance requested. See Exhibit A-6, Overlay of Zoning Plan and Existing Plan, prepared by Langan Engineering, 11/10/2023.

20. With regard to the restaurants proposed, Applicant was not in a position to identify the name of the certain restaurants, but did indicate that there would be a combination of café and sit down restaurants as well as restaurants with drive-thru service.

21. Applicant is aware that the Property is adjacent to a floodplain area. Applicant is proposing no encroachment into the floodplain and no development within the floodplain area.

22. Several members of the public did offer comment regarding the proposed development. Much of the commentary spoke to potential environmental impacts including stormwater management, flooding, climate change, and use of solar panels. Other public comment spoke to traffic safety.

23. Applicant indicated that after obtaining the zoning relief, Applicant would be in a position to address additional site concerns through the land development process, as appropriate. Applicant emphasized its understanding that there would be additional review by the Township and County Planning Commissions, by the Township Board of Supervisors, and by other agencies and entities having jurisdiction over various aspects of the proposed redevelopment plan.

24. Doylestown Township took no position with regard to this application.

CONCLUSIONS OF LAW:

1. The Subject Property has been developed and used consistent with the requirements of the Ordinance but for, and including, a number of dimensional nonconformities

2. In order to redevelop the Subject Property, Applicant seeks confirmation of a number of the existing legal nonconformities and in the alternative requests multiple dimensional variances.

3. No use variances have been requested. All variances requested are dimensional.

4. §175-112.B(4) of the Ordinance provides that,

Within the C-2 District only, a structure containing a conforming use but which is nonconforming with respect to front yard setback requirements may be demolished and rebuilt at the existing nonconforming setback line provided:

- (a) The new structure shall be located no closer to the street line at any point than the prior structure was located; and,
- (b) The total square footage of floor area that lies within the required front yard setback shall be no greater after reconstruction than the square footage of floor area that was located within the required front yard setback prior to removal.

5. The nonconformity provision speaks to the front yard setback for the existing Barn Cinema building and the redevelopment of buildings Retail C/Retail D at 80.4 feet and Restaurant E/Retail D/Restaurant F building at 80.6 feet. The Barn Cinema structure is located 63.9 feet from the ultimate right-of-way. The tower is 39 feet. Accordingly, Applicant is improving this preexisting nonconformity.

6. Applicant is improving a number of other legally preexisting nonconformities, as identified in the Order which follows.

7. The Applicant has presented evidence of sufficient factors to warrant the grant of the dimensional variance requested under the relaxed variance standard applicable to dimensional variance cases, as articulated by the Pennsylvania Supreme Court, in Hertzberg v. Zoning Board of Adjustment of the City of Pittsburgh, 554 Pa. 249, 721 A.2d. 43 (1998).

8. The competent evidence presented leads the Board to conclude that, if the variance relief is granted, there will be no negative impacts upon surrounding properties or uses. The project at issue represents reuse of the existing shopping center as a shopping center.

9. The evidence establishes that the relief sought by the Applicant is the minimum variance necessary. The plans submitted by Applicant clearly illustrate Applicant's attempt to redevelop the site in conformity with existing conditions, improving them where possible, and requesting the least variances necessary for overall redevelopment.

10. The variance sought will not alter the essential character of the neighborhood or district in which the Subject Property is located, for the reasons stated herein.

11. Accordingly, the Doylestown Township Zoning Hearing Board determined, unanimously, to GRANT the Applicant's request for relief, as is set forth hereafter.

ORDER

Upon consideration, and after hearing, the Zoning Hearing Board of Doylestown Township hereby GRANTS the zoning relief requested by Applicant, to permit Applicant to redevelop the Property, formerly known as the Barn Plaza Shopping Center, replacing the former theater and Applebee's spaces with six (6) proposed restaurants, four (4) proposed retail shops and one (1) proposed medical office use, along with new and additional signage, as follows:

Relief Granted:

1. Front Yard Setback Request.

Applicant seeks a variance from §175-72.A and §175-21, with regard to front yard setbacks. The Zoning Hearing Board finds the request moot in that the ZHB considers the setbacks existing nonconformities (existing theater structure is nonconforming with the 39 foot front yard setback at the tower and 63.9 feet at the main building). The proposed redevelopment of Buildings Retail C/D is 80.4 feet; and the Restaurant E Retail D and Restaurant F Building is at 80.6 feet. Accordingly, Applicant is improving a preexisting nonconformity.

2. Rear Yard Setback Request.

- a. The required rear yard setback under §175-72.A(5)(c) is 75 feet. Applicant requests a variance to permit the proposed medical office building setback at 35.4 feet. The existing theater structure is nonconforming at 36.1 feet. The ZHB considers the request *de minimis* and the variance is granted as such.
- b. The proposed Restaurant E/Retail D/Restaurant F is proposed at 52 feet from the rear lot line. The ZHB considers the variance request moot in that the Board considers the request subsumed by the existing nonconformity.

3. Paving/Parking Setback Request.

- a. Existing front paving setback is nonconforming at 5.5 feet. The proposed front paving at the new curb line is 13.2 feet. The ZHB considers same an existing nonconformity and permits the 13.2 feet setback.
- b. The proposed minimum front paving setback is 5.9 feet at the existing curb line. The ZHB considers same an existing nonconformity.
- c. The existing rear paving setback is nonconforming at 8.3 feet and will remain so. 10 feet is required. The ZHB considers same an existing nonconformity and permits same.
- d. Under §175-23.C(13) of the Ordinance, the required front, rear, and side yards for nonresidential uses may be utilized for the sole purpose of locating parking and accessways thereto to the extent of 50% in distance from the ultimate right-of-way line except that the parking areas may not occupy the 50% in distance closest to the ultimate right-of-way line. Applicant is not increasing an existing nonconformity. Therefore, the encroachment is permitted.

4. Residential Buffer Request.
The required residential buffer under §175-21.C of the Ordinance is 30 feet and 50 feet respectively. The existing buffer is a nonconforming 8.3 feet, which Applicant proposes to retain. The ZHB permits same as a preexisting nonconformity.
5. Parking Spaces.
§175-23.A(1) of the Ordinance requires all parking spaces to be 10' x 20'. The parking spaces supporting the preexisting theater use were permitted, by Ordinance, at 10' x 18'. Applicant seeks to maintain the 10' x 18' parking spaces which presently exist and are reflected on the plan. The Board grants the requested variance relief.
6. Proposed Pylon Signage
 - a. §175-111.2.F(1) of the Ordinance permits one (1) pylon sign along each street frontage of a property. For the Subject Property, there are two lots, one with frontage on Almshouse Road and Route 611, and the other with frontage on Route 611. Applicant seeks to retain the three (3) pylon signs for the parcel (both lots). The ZHB considers same a preexisting nonconformity permitting the three (3) pylon signs on the combined two parcels.
 - b. Under §175-111.2.F of the Ordinance, a pylon sign may have a maximum sign area of 250 square feet. Applicant requests 300 square feet for each. In addition, Applicant requests that the signs be 30 feet in height. The ZHB grants this variance relief.
7. Proposed Pylon Signage Setback
§175-109.C(3) of the Ordinance requires all signage to be setback from the street line the greater of 10 feet or the distance of the height of the sign. The existing pylon sign on Almshouse Road is 26.9 feet from the street line. Applicant seeks to maintain that nonconformity. The two proposed pylon signs to be erected on Route 611 will be setback 5 feet from the street or property line. The existing theater sign is 16 feet. The other sign is actually located within the right-of-way. The ZHB grants variances for the two signs on Route 611. The ZHB considers the Almshouse Road sign a preexisting nonconformity and permits same.
8. Impervious Surface Coverage.
Applicant seeks a special exception or a variance to permit a total of 73.9% impervious surface coverage. §175-72.A(3) of the Ordinance permits a maximum impervious surface coverage of 50%. Existing impervious surface coverage is 73.1%. The record is unclear how Applicant came to cover the property with 73.1% impervious surface coverage. Applicant asserts that 75.77% was previously approved in conjunction with construction of the Barn Cinema. That evidence is not of record. Accordingly, the ZHB considers the Applicant's request for a variance. The ZHB grants the variance to permit the 73.9% impervious surface coverage.
9. Driving and Stacking Lane
§175-16.E(6)(c) of the Ordinance requires 10 car space stacking for the drive-thru uses. Two of the three drive-thru uses proposed for the site show 9 car stacking (Restaurants B and D). Applicant seeks a variance accordingly. The Zoning Hearing Board grants a variance relief.

All relief granted is subject to the following specific conditions:

1. The tract currently consists of two tax parcels held under separate ownership by subordinate companies to Applicant, Brixmor Property Group. Use E14 of the Doylestown Township Zoning Ordinance requires that a shopping center use be one tract not to be subdivided. The current parcels, comprising the current tract, must remain under control of a single entity, whether the parcels remain under separate ownership or not, in order to comply with the Ordinance requirement that Use E14 consists of a single tract. The tract may not be further subdivided.
2. Consistent with Use E14, subsection e, the shopping center must be improved and constructed “in accordance with an overall plan and designed with a single architectural style approved by the Board of Supervisors”.
3. Applicant shall proceed through the land development process to address issues including stormwater management controls, traffic circulation (interior and exterior), lighting, landscaping, and other land development issues. The stormwater management controls must, at a minimum, address the increase of impervious surface from 72.36% (as indicated on Applicant’s plans as permitted by way of a 1980 Agreement allowing same) to 73.9% (the impervious surface coverage represented as resulting from the present development).
4. Compliance with all other applicable governmental ordinances and regulations.

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**ZONING HEARING BOARD
OF DOYLESTOWN TOWNSHIP**

By: /s/ William J. Lahr
William J. Lahr, Chairman

/s/ Mitchell Aglow
Mitchell Aglow, Vice Chairman

/s/ Samuel Costanzo
Samuel Costanzo, Secretary