

**RESIDENT/ PROPERTY OWNER NOTICE**  
**WHITPAIN TOWNSHIP ZONING HEARING BOARD**

Whitpain Township Zoning Hearing Board will hold a public meeting on Thursday, October 16, 2025, at 7:00 p.m. at the Whitpain Township Building, 960 Wentz Road, Blue Bell, Pennsylvania, 19422 in order to hear and possibly render decision(s) on the following new matter:

**2430-24 – Flagship Pennsylvania Propco, LLC** for property located at 901 DeKalb Pike, Blue Bell, PA, requests a two-year extension of the zoning approval granted by Decision and Order dated March 20, 2025, relating to a special exception to construct a carwash facility with conditions. This Property is located in the C-Commercial Zoning District.

This notice is being mailed to you in accordance with the Township's Zoning Ordinance, including Section 160-240, that requires the mailing or serving notice to the owners or occupiers, if known, of every lot on the same street within 500ft of the property that is the subject of the hearing or, if not on the same street, within 150ft of the subject property.

Copies of the application, exhibits, site plans or other materials received by the Township in connection with the above matter are on file with the Zoning Officer at the Township Building. Paper copies may be requested in writing from the Township at a cost as permitted by law. Applications and plans are also available for review on the Township's website at [www.whitpaintownship.org](http://www.whitpaintownship.org). All hearings will be held in-person and, unless an accommodation has been granted, all applicants, witnesses and individuals seeking to be a party to the proceeding or any individual wanting to provide public comment must be present to participate. Therefore, be advised that only testimony, evidence and public comment made before the Zoning Hearing Board may be considered as part of each hearing. Persons who wish to attend or participate in the above-referenced hearings and require an auxiliary aid, service or other accommodation, please contact the Township ADA Coordinator at 610-277-2400 or send an email to [buildingandzoning@whitpaintownship.org](mailto:buildingandzoning@whitpaintownship.org) within five days of the hearing.

Members of the public who wish to be considered a party to the proceedings may contact Whitpain Township at 610-277-2400 or send an email to [buildingandzoning@whitpaintownship.org](mailto:buildingandzoning@whitpaintownship.org) to request information about the procedure. The Zoning Hearing Board determines at the hearing who may participate in the hearing as a party in accord with Section 908(3) of the Pennsylvania Municipalities Planning Code hereafter referred to as the "MPC." The MPC permits party status to any person or persons "affected" by the Application. Having taxpayer status and/or township resident status alone is not enough to obtain party status; however a person whose property or business abuts the property that is the subject of the Application is typically deemed to

be affected and sufficient for party status. Ultimately, it is the Zoning Hearing Board that makes the party status determination after reviewing the request.

You need not be a party in order to provide comment on an application. The Zoning Hearing Board will hear public comment on each application prior to closing the hearing. Following the close of the hearing, the Zoning Hearing Board will render a decision, unless it deems that additional time is required for consideration and deliberation, in which case it will continue the public meeting to an announced date and time for that purpose.

**ZONING HEARING BOARD  
OF WHITPAIN TOWNSHIP**

# HRMM&L

## HAMBURG, RUBIN, MULLIN, MAXWELL & LUPIN, PC

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John J. Iannozzi  
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Ron L. Woodman  
Kevin M. McGrath LL.M.  
Amy C. Quigg  
John S. Han  
Steven J. English  
Danielle M. Yacono  
Zachary R. Morano  
Brittany Ann Kane  
Celso L. Leite, Jr.  
J. Braun Taylor  
Mark A. Umansky  
Gabriela A. Amado  
Grace C. Gelone

33657-0000

September 16, 2025

VIA HAND-DELIVERY

Travis DeCaro, Code Enforcement Officer  
Whitpain Township  
960 Wentz Road  
Blue Bell, PA 19422

**Re: Zoning Hearing Board Request for Extension Application  
Applicant: Flagship Pennsylvania Propco, LLC**

Dear Mr. DeCaro:

Enclosed please find the following for the Applicant's Zoning Hearing Board Application requesting to extend a previously granted special exception:

12 copies of the Zoning Hearing Board Application and attachment;

12 copies of the Decision in Application No. 2430-24; and

A check in amount of \$300 made out to Whitpain Township.

Should you have any questions I can be reached by phone at 215-872-7367 and by email at [bkearney@hrmml.com](mailto:bkearney@hrmml.com).

Very truly yours,

HAMBURG, RUBIN, MULLIN,  
MAXWELL & LUPIN

By:   
BERNADETTE A. KEARNEY

cc: John Lombardo *via email*  
Kestra Kelly, P.E. *via email*

{04149295;v2 }



# RECEIVED

Case: ZHB #2430-24

SEP 16 2025

WHITPAIN TOWNSHIP

Codes@WhitpainTownship.org

## Code Enforcement Department Zoning Hearing Board Application

### 1. Required Information:

Applicant Name: Flagship Pennsylvania Propco, LLC

Applicant is:  Owner or Owner's Representative  Equitable Owner  Tenant  Other

Applicant Address: 950 Herndon Pkwy.; Suite 400, Herndon, VA 20170

Phone: 610-952-5100 Email: jlombardo@spotlessbrands.com

Subject Property Address: 901 Dekalb Pike, Blue Bell, PA 19422

### 2. Application Type (select all that apply):

Variance  Appeal of the determination of Zoning Officer  Appeal from a Zoning Enforcement Notice

Special Exception  Request to extend a previously granted variance or special exception prior to expiration

Other: \_\_\_\_\_

### 3. Description of Project and Relief Request in Detail (required):

See Attached

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

### 4. Signatures:

Applicant: John R. Lombardo Date: 09/12/25

Property Owner: John R. Lombardo Date: 9/12/25

#### For Office Use Only

Fee: \$300.00

Zoning District: C

Article: \_\_\_\_\_

Section: \_\_\_\_\_

Reviewed By: JRL

Review Date: 9/16/25

The Applicant is proposing a car wash and received zoning relief on March 20, 2025 for a special exception from Section 160-119.N. to construct a car wash facility subject to certain conditions as set forth in the March 20, 2025 order. A copy of the Decision and Order in Application No. 2430-24 (“Decision”) is attached hereto.

Condition #9 of the Decision states that “any and all relief granted herein shall expire within one (1) year of the date of this decision if Applicant fails to obtain a use and occupancy permit or a building permit as applicable in accordance with 160-241 of the Whitpain Township Zoning Ordinance.”

The Applicant made a land development submission in May 2025 and received review letters in June 2025 indicating that a five foot wide sidewalk crossing the existing stream on both Routes 73 and 202 is required. The Applicant has discussed the stream crossing requirement with the Township. The requirement to cross the existing stream with pedestrian bridges is a costly and time-consuming permitting process which will include obtaining special exception relief from the Township’s Floodplain Conservation District Ordinance.

In addition to the stream crossing/pedestrian bridges, as seen on the attached Anticipated Permit Process Timeline prepared by BL Companies (“Timeline”), there is considerable time needed for PennDOT permitting, land development approval from the Township, NPDES permitting, DEP/Army Corps. of Engineers Joint permitting for pedestrian bridge crossings, and DEP sewer planning module approval.

Prior to continuing to proceed with the land development process and permitting and approval processes set forth above and on the attached Timeline, the Applicant wants to ensure that it has enough time to do so as it relates to the Decision which expires in March 2026. The Applicant is requesting a two (2) year extension to March 20, 2027, as the Applicant expects it will take 6 months for survey, analysis, submission and review by the Township and outside agencies, and filing and obtaining a special exception for the pedestrian bridges. The overall duration for obtaining permits for the pedestrian bridges is anticipated to be 18 months after the special exception is granted from the Floodplain Conservation District Ordinance for a total of 24 months.

## Spotless Whitpain Township Anticipated Permit Process

**Whitpain Township Special Exception** per FP Floodplain Conservation District (§160-175.C Uses permitted by special exception (culverts, endwalls, headwalls, and bridges with the approved of appropriate authorities with jurisdiction, such as the Commonwealth of Pennsylvania, Department of Environmental Protection) for two pedestrian bridges crossing jurisdictional streams

**Anticipated Duration ~ 6 months**

- Additional Survey for stream cross sections (*in process*)
- Hydrology and Hydraulic Analysis of pedestrian bridge crossings
- Submission to Township Engineer for review and comment
- Submission to outside agencies for review and comment
- Special Exception Submission to Township
- Zoning Hearing Board Hearing
- Zoning Hearing Board Written Decision
- Appeals Period

**PennDOT Permitting – Traffic Impact Study and PennDOT HOP**

**Anticipated Duration ~ 12 months**

- Scoping Prep and Submission (complete)
- PennDOT Scoping Review (complete)
- Traffic Impact Study (*in process*)
- TIS review and approval
- HOP Plans submission, review and approval

**Whitpain Township Preliminary/Final Land Development**

**Anticipated Duration ~ 5 months**

- Land Development Plans submission and review
- Planning Commission Meetings (anticipate two)
- Board of Supervisors Meeting (anticipate two)
- Clean Letters
- All outstanding agency approvals, posting escrow and recording plan

**Montgomery County Conservation District NPDES Permit**

**Anticipated Duration ~ 12 months**

- Pre-Application Meeting
- Completeness Review and address comments
- Technical Comment Review and address Comments
- Final comments and permit issuance

**Pennsylvania Department of Environmental Protection and US Army Corps of Engineers Joint Permit** – for pedestrian bridge crossings not eligible for general permit due to drainage area

**Anticipated Duration ~ 12 months**

- Pre-Application Meeting
- Completeness Review and address comments
- Technical Comment Review and address Comments
- All outstanding agency approvals
- Final comments and permit issuance

**Pennsylvania Department of Environmental Protection Sewer Planning Approval:**

**Anticipated Duration ~ 5 months**

- Submit PADEP Sewer Planning Exemption to Township for review and signature
- Submit to PADEP review and comment

Note anticipated permit duration is based on current status and does not take into account effort completed to date.

Overall permit duration anticipated to be 18 months after Special Exception granted for Floodplain Conservation District

**BEFORE THE ZONING HEARING BOARD OF WHITPAIN TOWNSHIP  
MONTGOMERY COUNTY, PENNSYLVANIA**

**IN RE: APPLICATION OF** : **Application No. 2430-24**  
**FLAGSHIP PENNSYLVANIA** :  
**PROPCO, LLC** :

**DECISION**

**I. BACKGROUND**

A public hearing was held on January 16, 2025, with regard to the application (hereinafter referred to as the “Application”) of Flagship Pennsylvania PropCo, LLC for property located at 901 DeKalb Pike, Blue Bell, PA 19422. The Application requests a special exception from the Whitpain Township Zoning Code (hereinafter referred to as the “Zoning Code”) to construct a car wash on the property: a special exception from Section 160-119.N to permit any use of the same general character as any use hereinbefore specifically permitted by special exception.

Notice of the public hearing was provided in accordance with law and included advertising in a newspaper of general circulation and posting the property. All members of the Zoning Hearing Board were present as well as the Zoning Hearing Board Solicitor and the Court Reporter. Witnesses were duly sworn or affirmed and notes of testimony for the hearing were taken. Following public comment, the hearing was closed, and it was announced that a vote would be taken at the Zoning Hearing Board’s February 20, 2025 public meeting. On February 20, 2025, the Zoning Hearing Board voted 3-2 to approve the Application and this Decision follows as a result of that vote.

**II. FINDINGS OF FACT**

1. The applicant is Flagship Pennsylvania PropCo, LLC (hereafter referred to as “Applicant”).

2. The subject property is located at 901 DeKalb Pike, Blue Bell, PA 19422 (hereafter the “Property”) in C Commercial Zoning District.

3. The following Exhibits were marked and duly admitted into evidence:

ZHB-1	Application;
ZHB-2	Legal Ads;
ZHB-3	Application attachments;
ZHB-4	Whitpain Board of Supervisors Participation Memo;

A-1	12/17/24 BL Transmittal Letter to Township with ZHB Application;
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A-2	Color Photos of Property (2);
A-3	Sketch Plan by BL Companies dated 12/17/24;
A-4	Sketch Plan by BL Companies dated 6/14/24;
A-5	Conceptual Rendering by Bernardon;
A-6	Redacted Agreement of Sale;
A-7	11/24/24 Letter to Township from BL Companies with revised sketch plans;
A-8	Letter from Zoning Officer dated 12/11/24;
A-9	Site Aerial by BL Companies dated 1/14/25;
A-10	Sketch Plan by BL Companies dated 12/17/24 revised 1/14/25;
A-11	Site Circulation Plan by BL Companies dated 1/14/25
A-12	Zoning Ordinance Sections 160-118 through 160-121, C-Commercial District;
A-13	CV of Michael McKeever; and
A-14	CV of Guido DiMartino

4. The Applicant was represented by Bernadette Kearney, Esq., and Applicant presented the following witnesses: (a) Michael McKeever from BL Companies, who was accepted as an expert in civil engineering; (b) Guy DiMartino from TPD, who was accepted as an expert in traffic planning; and John Lombardo of Spotless Brands, who will be the operator of the proposed car wash.

5. The Applicant requested the following relief:

A. a special exception from 160-119.N to construct a carwash.

6. The Applicant through testimony and exhibits presented the following:

A. The Property is located at 901 DeKalb Pike on the southwest corner of the intersection of Skippack Road and DeKalb Pike and contains approximately 1.42 acres.

B. There are currently two structures on the Property (Reed's Country Store and Reed's Country Wicker) that are presently unoccupied, and adjacent to these two structures is a compacted gravel or asphalt parking area along with a shared access road west of the parking area. N.T. pp17-18.

C. The Applicant is proposing an approximately 16,000 square-foot carwash facility as shown on the submitted plans.

D. The proposed washing (wet) portion of the facility will be automated and once cars exit the washing portion, they will have a choice to enter a self-vacuuming area or a detail/ dry tunnel area.

- E. Before entering the carwash facility, cars will have to stop at a pay station that will be manned by an attendant.
- F. The entering and exiting process was described as follows, "As the vehicles proceed through the pay stations, swipe their card for payment, select their wash type, they would all proceed through the wet tunnel, which is to the far east side of the building, proceeding north through that tunnel. After exiting the tunnel, the customer would, then, make a left-hand turn and then have a decision. They could proceed back through the building, either in the central lane, which consists of manual vacuums, where coin operated or membership operation. The customer can park, get out of their vehicle, manually vacuum their interior, their floor mats, et cetera." N.T. p20.
- G. With regard to the self-vacuuming area, there will be eleven (11) manual vacuum spaces in the central portion of the building.
- H. With regard to the detail/ dry tunnel area (also referred to as "dry belts"), it was explained that the intent of this area is to provide a full-service interior detail, which would be an employee taking the vehicle and performing detailing services. N.T. p20-21.
- I. The carwash facility will recycle the water used consistent with industry standards and the facility will use environmentally safe detergents.
- J. The hours of operation are proposed to be 8AM to 8PM daily.
- K. No oil changes will occur at the Property.
- L. There will be no public announcement system and no music being played at the site. N.T. p46.
- M. While the operator has a standard design for its carwash facilities, the proposed design here is custom in order to accommodate the site and applicable requirements.
- N. There are seven (7) employee parking spaces to the west of the building, including an ADA accessible space as well as adjacent to the west side of the shared access drive, a trash enclosure pad with access for a waste collection vehicle. N.T. p21.
- O. The Applicant will have no more than seven full-time employees based on the current site layout of only seven employee parking spaces. N.T. p67.

- P. The Applicant will require the employees to back into the employee spaces so that the front end of the car is facing the drive aisle so as to address any traffic movement concerns. N.T. p47.
- Q. With regard to traffic, Mr. DiMartino described the site as currently "served by two access points to 202 and DeKalb Pike. The Wawa is a signalized access at the southern most limit. South of the proposed carwash is a signalized access to the Wawa, which also would allow patrons to this proposed facility to access this facility. North of the signalized access to the Wawa is un-signalized driveway to DeKalb Pike, which is situated between the CVS and the Wawa that restricts left turns in that location." N.T. p35
- R. With regard to circulation, it was explained that "[c]irculation to the property comes from right in/right out access off of Skippack Pike. The circulation then proceeds to the south end of the property, where [there would be] three pay station lanes, consisting of fifteen stacking spaces." N.T. p19.
- S. When asked to describe circulation and stacking, Applicant's Traffic Engineer, Mr. DiMartino referred to Exhibit A-11 and stated, "If you're coming in Skippack Pike turning right onto that common access drive. And then heading south along that drive, you would then turn left to get into the pay stations, where you can see three rows of five vehicles are shown in kind of a lighter gray scale stacked there. As you proceed through that pay station, you can continue to see some additional vehicles queued beyond the pay station and before you enter the wet tunnels, which is shown in the blue. You proceed north through those wet tunnels. And then, once you exit the wet tunnel, you have the decision to make either – make what I call it a hard U-turn into the green area, which is the vacuums or a softer U-turn-type movement into the dry belts. As you go through either the vacuums or the dry belts, then you would make a right out of one of those. And you'll reach that common access drive. And from there, you make your decision whether or not you turn left to ultimately get to the Dekalb Pike driveways or you turn right to get to the Skippack Pike driveway." N.T. p36.
- T. When asked about whether there will be stacking/queuing or a backup onto Skippack Pike, Mr. DiMartino stated, "Exhibit A-11 illustrates – it shows fifteen vehicles stacked at the pay station, three rows of five. And then, as Mr. McKeever (Applicant's Civil Engineer) mentioned, there's actually additional stacking that would occur after you go through the pay station before you enter the left tunnel. In this illustration, there's an additional five vehicles shown. So, in total, twenty vehicles are shown can be stacked." N.T. p37.

- U. It was also explained that there is a “bypass” or “bailout lane” at the front near the pay stations so that the employee manning the pay station can allow a customer to exit the line through a gate so as to not cause disruption. The employee would manually lift the gate for the customer to allow them to exit. N.T. p22 (stating, “You’ll be able to proceed through. And essentially you turn through what’s labeled as a 16-foot wide striped area bailout lane so that you could exit the site without having to pass through the wet belt.”)
- V. In arriving at his opinions, Mr. DiMartino collected data for similar-type facilities that are operated by the Applicant in Virginia and Maryland.
- W. Based on the data collected, Mr. DiMartino determined that this site would generate roughly 119 trips in the evening peak hour. On Saturday afternoons, it would generate roughly 216 trips during the afternoon peak hour. N.T. p38
- X. With regard to the potential trips, Mr. DiMartino explained that “One thing to keep in mind is a carwash, just like many other retail uses, there’s characteristics of trips. So those trips that I stated, they are not all new. Some of them are pass-by trips. People choose to go to the carwash when it’s convenient for them, just like getting a cup of coffee. You might choose to go to the carwash when you run an errand, when you’re going to already pass the site. So what we found and what’s accepted practice by PennDOT is 50 percent of the trips that are visiting the site are pass-by trips. That means 50 percent of the trips are already going to be traveling on 202 and Skippack Pike with or without this proposed application.” N.T. p39.
- Y. Mr. DiMartino opined that the proposed use is suitable for the Property and that it would not endanger the safety of persons or Property. N.T. p41.
- Z. When asked questions about access and circulation, Applicant represented that there is a cross-easement with the adjacent property (currently a CVS) and that Applicant intends to work with the adjacent property to explore widening existing drive aisles to allow for two-way access/ use, if requested by the Township. N.T. pp53, 55.
- AA. Applicant acknowledged and agreed that this project will need land development approval in accordance with the Township’s Subdivision and Land Development Ordinance.
- BB. Applicant represented that a landscape buffer will be part of their land development plan. N.T. p22.

- CC. Applicant also represented that they will design and provide stormwater management facilities as part of their land development plan. N.T. p23.
- DD. Applicant acknowledged that a traffic impact fee is associated with the proposed use. N.T. p40.
- EE. During the hearing, the Applicant's Counsel preemptively addressed questions about whether the relief sought was under the Section 160-11.N or Section 160-11.R(11) of the Zoning Code.
- FF. Applicant's Application was submitted in June 2024 and in August 2024 the Zoning Code was amended to add a new Section 160-11.R(11) that specifically added criteria for a "drive-through vehicle care facility" (i.e. a carwash facility) use. N.T. p7.
- GG. The Applicant was advised that a special exception was needed because they are substantially similar to the other uses. N.T. p11
- HH. The Applicant is therefore proceeding under Section 160-11.N because that is the Section that applied when the Application was submitted and was before the Zoning Code was amended to add additional, specific criteria relating to car wash facilities. N.T. p8.
- II. Notwithstanding, the Applicant agreed to meet all of the criteria under Section 160-11.R(11) except for the minimum lot size of 1.5 developable acres because the Property is currently about 1.42 developable acres. N.T. pp8, 12, 30.

7. The Township, through its solicitor Alex Glassman, was granted party status and no one else requested party status. N.T. p5.

8. During public comment, Peter Lowry of 45 Meade Road spoke in opposition to the requested relief and expressed concerns that the proposed facility was oversized/ too large, that its size would cause safety issues, that its use would cause traffic issues, that its design does not promote walkability, and that it is inconsistent with the Township's Comprehensive Plan and development standards. N.T. p71- 76.

9. Following the close of the hearing, the ZHB deliberated in executive session and on February 20, 2025, voted 3-2 to grant the requested relief with conditions.

### **III. CONCLUSIONS OF LAW**

1. The Whitpain Township Zoning Hearing Board has jurisdiction over the subject matter of the Application. The parcel in question is located in Whitpain Township, Montgomery County, Pennsylvania. The Applicant and the subject matter are properly before the Board and the Applicant has standing to submit the Application.

2. All required hearing notices were published and posted in accordance with law.

3. The Property is located in the C Commercial District.

4. Section 160-119.N. of the Zoning Code permits “[a]ny use of the same general character as any use hereinbefore specifically permitted by special exception” in the C-Commercial District.

5. A carwash facility use is of the same general character as other uses permitted in the C-Commercial District.

6. No sufficient evidence was presented demonstrating that the proposed use of the Property for a carwash facility would have a greater detrimental impact on public health, safety, and welfare than would be typical of a similar type of use of the Property, which is permitted by the Whitpain Township Zoning Ordinance in the C-Commercial District.

7. The proposed carwash use will not have a detrimental effect on the safety or health of the immediate neighborhood, community, or general public, particularly in light of the conditions agreed to and imposed by this Decision and Order.

8. The proposed use will not negatively impact the character of the neighborhood or its immediate surroundings, particularly in light of the conditions agreed to and imposed by this Decision and Order.

9. Applicant is amenable to several conditions of approval to offset any perceived impacts from its use of the Property, including:

- a. To the extent not already shown in the exhibits presented, Applicant shall comply and maintain compliance with all criteria set forth under Section 160-119.R (11) except for the minimum developable lot size requirement;
- b. The Applicant shall not have more than seven (7) full time employees at any one time, unless additional parking spaces are provided on the Property beyond what are shown on the Plans submitted;
- c. The Applicant shall require all employees to back into the employee parking spaces so that the front end of the car is facing the drive aisle; and

- d. Applicant shall execute a cross easement with the property owner of the adjacent CVS-parcel for ingress and egress movements to the satisfaction of the Township, and Applicant shall explore with the adjacent property owner the widening of any internal roadway/ drive aisles on the CVS-parcel to accommodate two-way traffic movements

10. Upon review of the standards for approval of a special exception as set forth in § 160-119 of the Zoning Code and § 912.1, of the Pennsylvania Municipalities Planning Code, the Whitpain Township Zoning Hearing Board determines it is appropriate to grant zoning relief in the form of a special exception subject to certain conditions as set forth in the Order attached to this Decision, which Order and conditions are hereby incorporated herein by reference.

#### IV. DISCUSSION

##### A. Standards for Grant of a Special Exception

A special exception is not an exception to a zoning ordinance, but a use an applicant is entitled to, unless objectors demonstrate that the proposed use would adversely affect the community according to standards set forth in the zoning ordinance. *Rapaport v. Zoning Hearing Board of the City of Allentown*, 687 A.2d 29 (Pa. Cmwlth. 1996); *Blancett-Maddock v. City of Pittsburgh Zoning Board of Adjustment*, 640 A.2d 498 (Pa. Cmwlth. 1994); *Brentwood Borough v. Cooper*, 431 A.2d 1177 (Pa. Cmwlth. 1981); *Zoning Hearing Board of Upper Darby Township v. Konyk*, 290 A.2d 715 (Pa. Cmwlth. 1972).

The existence of a special exception provision in a zoning ordinance indicates a legislative determination that the use is consistent with the municipality's zoning plan and presumptively consistent with the public health, safety, and welfare. *In re: Cutler Group, Inc.*, 880 A.2d 39 (Pa. Cmwlth. 2005); *Borough of Parkasic v. Moulton Builders*, 850 A.2d 778 (Pa. Cmwlth. 2004); *Bailey v. Upper Southampton Township*, 690 A.2d 1324 (Pa. Cmwlth. 1997); *Ruddy v. Lower Southampton Township Zoning Hearing Board*, 669 A.2d 1051 (Pa. Cmwlth. 1995); *Evans v. Zoning Hearing Board of Easttown Township*, 396 A.2d 889 (Pa. Cmwlth. 1979).

An applicant for special exception only has the burden of establishing that the proposed use complies with the objective requirements of the zoning ordinance. *41 Valley Associates v. Board of Supervisors of London Grove Township*, 882 A.2d 5 (Pa. Cmwlth. 2005); *Appeal of Neill*, 634 A.2d 749 (Pa. Cmwlth. 1993).

Once an applicant for a special exception demonstrates compliance with the specific, objective requirements of the zoning ordinance, the burden shifts to the objectors to prove there is a high probability that the proposed use will generate adverse impacts not normally generated by the type of use in question and that those atypical impacts pose a substantial threat to the health and safety of the community. *Heck v. Zoning Hearing Board for Harvey's Lake Borough*, 397 A.2d 15 (Pa. Cmwlth. 1979) (emphasis added).

Denial of a special exception is not supported by mere speculation as to possible negative effects. *Manor Healthcare Corp. v. Lower Moreland Township Zoning Hearing Board*, 590 A.2d

65 (Pa. Cmwlth. 1991). Rather, after an applicant for special exception establishes that the proposed use complies with the objective requirements for the special exception, it may only be denied if objectors demonstrate, through competent and substantial evidence, that the impact of the proposed use on the public welfare is greater than that which would be expected from such a use in “normal” circumstances. *Ruddy*, 669 A.2d 1051; *Mann v. Lower Makefield Township*, 634 A.2d 768 (Pa. Cmwlth. 1993); *Dotterer v. Zoning Hearing Board of Upper Pottsgrove Township*, 588 A.2d 1023 (Pa. Cmwlth. 1991); *New Bethlehem Borough Council v. McVay*, 467 A.2d 395 (Pa. Cmwlth. 1983).

**B. Applicant Presented Sufficient Evidence To Allow By Special Exception A Carwash Facility Use On The Property.**

Section 160-11.N of the Zoning Code states, with regard to uses permitted in the C-Commercial District, “[a]ny use of the same general character as any use hereinbefore specifically permitted by special exception.”

Here, the Property is located in the C-Commercial District and the Applicant seeks to construct/ operate a carwash facility on the Property. Applicant therefore submitted its Application in June 2024 to obtain special exception approval from the Zoning Hearing Board under Section 160-11.N. Subsequent to their submission, the Zoning Code was amended. Consistent with Section 160-11.N, the amendment also allows for a carwash use by special exception *but* with 22 specific criteria that must be met. While the Applicant may not be required to meet the new criteria under Section 160-11.N, Applicant agreed as one of the conditions of approval that they would meet all of the new criteria except for the requirement that the site contain 1.5 developable acres since the Property only contains 1.42 developable acres.

Therefore, as set forth above and contained in the transcript and exhibits, Applicant has demonstrated that its proposed carwash use would not have a greater detrimental impact on public health, safety, and welfare than would be typical of a similar type of use of the Property. Applicant has also demonstrated that the proposed carwash use will not have a detrimental effect on the safety or health of the immediate neighborhood, community, or general public, particularly in light of the conditions agreed to and imposed by this Decision and Order. Applicant has further demonstrated that the proposed use will not negatively impact the character of the neighborhood or its immediate surroundings, particularly in light of the conditions agreed to and imposed by this Decision and Order.

**BEFORE THE ZONING HEARING BOARD OF WHITPAIN TOWNSHIP  
MONTGOMERY COUNTY, PENNSYLVANIA**

**IN RE: APPLICATION OF** : **Application No. 2430-24**  
**FLAGSHIP PENNSYLVANIA** :  
**PROPCO, LLC** :

**ORDER**

**AND NOW**, this 20<sup>th</sup> day of March, 2025, upon consideration of the Findings of Fact, Conclusions of Law, and Discussion as set forth in the foregoing written Decision, the Whitpain Township Zoning Hearing Board hereby ORDERS that:

- (1) The following relief is hereby granted:
  - A. a special exception from 160-119.N to construct a carwash facility.
- (2) All use and development permitted by this Order and the foregoing Decision shall conform to the evidence and testimony presented by the Applicant at the hearing, unless inconsistent with any specific conditions imposed by this Order, in which case the specific conditions shall take precedence.
- (3) To the extent not already shown in the exhibits presented, Applicant shall comply and maintain compliance with all criteria set forth under Section 160-119.R (11) except for the minimum developable lot size requirement.
- (4) The Applicant shall not have more than seven (7) full time employees at any one time, unless additional parking spaces are provided on the Property beyond what are shown on the Plans submitted.
- (5) The Applicant shall require all employees to back into the employee parking spaces so that the front end of the car is facing the drive aisle.
- (6) Applicant shall execute a cross easement with the property owner of the adjacent CVS-parcel for ingress and egress movements to the satisfaction of the Township, and Applicant shall explore with the adjacent property owner the widening of any internal roadway/ drive aisles on the CVS-parcel to accommodate two-way traffic movements.
- (7) The Applicant shall comply with all requirements of Whitpain Township including, but not limited to, all building codes, fire codes, and other zoning provisions to the extent relief was not granted herein or by subsequent Order, and the Subdivision and Land Development Ordinance (SALDO) to the extent applicable.

(8) The Applicant shall submit, if required by any law, regulation, or ordinance, all plans, and shall apply for and obtain all permits required.

(9) Unless otherwise stated in this Decision and Order, any and all relief granted herein shall expire within one (1) year of the date of this decision if Applicant fails to obtain a use and occupancy permit or a building permit as applicable in accordance with § 160-241 of the Whitemarsh Township Zoning Ordinance.

BY: WHITMARSH TOWNSHIP  
ZONING HEARING BOARD<sup>1</sup>



Kent Conway, Vice Chair



Amy McAndrew



Dana DiSandro, Member

A copy of this Decision and Order  
was mailed to the Applicant on this date:

3/21/2025

THIS DECISION AND ORDER OF THE WHITMARSH TOWNSHIP ZONING HEARING BOARD IS FINAL AND ANY APPEAL OF IT MUST BE FILED WITH THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY WITHIN THIRTY (30) DAYS FOLLOWING THE COPY MAILING DATE.

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<sup>1</sup> Kyle Speece and Marie Golson voted against the application so they did not sign the decision and Ms. McAndrew was not available to sign in person and therefore an e-signature was used.