

## **LEGAL NOTICE**

**NOTICE IS HEREBY GIVEN** in accordance with Chapter 280-142.F & G that the Zoning Hearing Board of Radnor Township will hold a public hearing at the Township Municipal Building, 301 Iven Avenue, Wayne, PA on **Thursday, February 21, 2013, at 7:30 p.m.** to hear the following Appeals:

### **APPEAL #2888**

The Applicants, RRD County Line, LLC, property located at 1106 County Line Road and zoned R5 residential. Continued from the January hearing.

### **APPEAL #2889**

The Applicant, 134 Partners, LP, property located at 134 N Wayne Avenue and zoned WBOD (Wayne Business Overlay District). The Applicant intends to establish an ice cream and donut bar on the lower level of the building. The proposed use is permitted in the zoning district. Applicant requests relief for the installation of 16 seats for the establishment. Applicant seeks the following zoning relief:

- 1)** A modification of the condition of Appeal #2859 limiting the lower level to retail use;
- 2)** A special exception pursuant to 280-101(A) or (B) in that the proposal is a legal non-conformity;
- 3)** A variance or a de minimis variance from Section 280—53.12(B)(5) of the Code relating to off street parking; and/or
- 4)** That the use is permitted as of right.

Please Publish: February 6, 2013  
February 13, 2013

**ZONING HEARING BOARD APPLICATION**

**TOWNSHIP OF RADNOR**

**301 IVEN AVENUE**

**WAYNE, PA 19087**

**610-688-5600**

**FAX: 610-971-0450**

www.radnor.com

<b>TOWNSHIP USE ONLY</b>
APPEAL # <u>2888</u>
FEE: _____
DATE RECEIVED: _____

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**GENERAL INFORMATION:** Applicants are strongly encouraged to review the "Requirements and Information for Appeals to the Zoning Hearing Board" that are attached to this application. Ten (10) copies of this application with required attachments must be filed with the Community Development Department not less than *thirty (30)* calendar days prior to the hearing.

**INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED FOR PROCESSING**

**APPLICATION FEE: RESIDENTIAL \$550.00 NONRESIDENTIAL: \$700.00**

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**PLEASE TYPE OR PRINT**

Property address: 1106 County Line Road, Rosemont, PA

Name of applicant: RRD County Line, LLC

Telephone number: 215-345-7721 Email: wcats76@aol.com

Property Owner (if different than above): \_\_\_\_\_

Property address: \_\_\_\_\_

Telephone number: \_\_\_\_\_ Email: \_\_\_\_\_

Attorney's name: William J. Bolla, Esq.

Address: 116 E. Court Street, Doylestown, PA 18901

Telephone number: 215-345-8888 Email: wjbolla@doylestownlawfirm.com

**ATTACHMENTS: Ten (10) copies of each of the following *must be* provided:**

Engineered plan or survey of the property drawn to scale, prepared by a registered architect, engineer or surveyor licensed in Pennsylvania, containing the following information:

- a) lot lines and lot dimensions described in metes and bounds (in feet)
- b) total lot area;
- c) location of easements and rights of way, including ultimate rights of way;
- d) location of all setback lines for existing and proposed structures;
- e) location of steep slopes, floodplains, riparian buffers, wetlands, and other pertinent features; f) location of existing and proposed improvements;
- g) table of zoning data including zoning district, required setbacks, existing and proposed building coverage, impervious coverage, height, and other pertinent zoning restrictions, and specifying whether the existing and/or proposed improvements comply with the zoning requirements, or specify the degree of any noncompliance; and,
- h) all other features or matters pertinent to the application

**PLANS SHALL NOT EXCEED 24" X 36" , AND MUST BE NEATLY FOLDED TO NO GREATER DIMENSION THAN 8 ½" X 11" AT FILING**

Please indicate whether the following additional requirements are included:

- Y \_\_\_ N X List of witnesses and summary of testimony.
- Y \_\_\_ N X Photographs of the property at issue and all adjoining properties.
- Y \_\_\_ N X Copies of written professional reports, including traffic studies, land planning studies, appraisals, floodplain analyses, economic forecasts or other written reports which the applicant wishes to present at the hearing. *(note - the author of the study or a qualified representative of the entity who prepared the study must appear at the meeting and be available for cross-examination)*
- Y X N \_\_\_ Copy of deed, lease, agreement of sale, or other authorization to file the appeal. *(note leases or agreements of sale either must expressly permit the tenant or buyer to file the appeal, or must be accompanied by a by a letter from the owner clearly authorizing tenant or buyer to file the appeal)*
- Y \_\_\_ N X Will this application involve land development or the subdivision of land. Applications that involve land development subdivision of land are referred to the Planning Commission for review and recommendation. *Applicants will be notified of the date and time of the Planning Commission meeting*
- Y \_\_\_ N X Will briefs or memoranda of law be filed in accordance with requirements of the Zoning Hearing Board. *(note – 10 copies of any brief or memorandum of law to be submitted by the applicant must be received by the Community Development Department no later than 14 days prior to the meeting)*

**Relief requested and/or basis for appearing before the Zoning Hearing Board including *specific citation to any and all sections of the Zoning Code relevant to the appeal. (attach additional pages if necessary)***

SEE ATTACHED RELIEF AND RATIONALE ADDENDUM

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**Description of previous decisions by the Zoning Hearing Board pertinent to the property, or attach copies of decisions: *(attach additional pages if necessary)***

**Brief narrative of proposed improvements: *(attach additional pages if necessary)***

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**Brief narrative of proposed improvements: *(attach additional pages if necessary)***

There are no improvements proposed in this application.

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Y X N

Will the applicant (or duly authorized officer of the applicant, if applicant is not a natural person) be present at the hearing. If not, then power of attorney, notarized and in recordable form, authorizing the person who will testify on behalf of the applicant, and to bind the applicant in any proceedings of the Board must be presented at or before commencement of the hearing. Attorneys, agents, or other representatives of the applicant may not appear and testify on behalf of the applicant without power of attorney. Forms of power of attorney are available in the Community Development Department. *(note- failure to provide power of attorney will result in either the appeal being discontinued, or being dismissed, at the discretion of the Board)*

  
\_\_\_\_\_  
ATTORNEY FOR APPLICANT

**AN ADDITIONAL FEE F \$150 SHALL BE CHARGED FOR ANY CONTINUANCE REQUESTED BY THE APPLICANT. THIS FEE SHALL BE PAID PRIOR TO THE RESCHEDULING OF THE HEARING.**

## RELIEF AND RATIONALE

This property was purchased by the Applicant on June 10, 2010. Dan Lyons, one of the principals in the LLC that owns the property, graduated in May of 2012 but continued to matriculate at Villanova for summer courses until August, 2012. At that point, the Applicant rented the property to four Villanova students, without knowledge of the rules about student housing.

When purchased, the property contained two kitchens. Extensive cosmetic improvements were made to the property however, the second kitchen was not improved and is seldom used.

The property presently accommodates four Villanova seniors, all of whom are expected to graduate this year (2013). Prior to June, 2013, the Applicant's youngest son will determine whether he is going to attend the Villanova School of Law. If he does, he will reside in the home and it will again be owner occupied. If he does not, the Applicant will list the property for sale upon the expiration of the current lease.

Accordingly, the Applicant requests zoning relief in order to allow these seniors, who reside in the property, to graduate and to enable the Applicant to honor the lease that has been entered into with them.

The relief requested by the Applicant is, therefore, the following:

1. a special exception pursuant to the Radnor Township Zoning Ordinance §280-115.2 for a student home;
2. a variance from Subsection B thereof, to permit the property to be occupied as a student home until June 30, 2013, within a dwelling unit that, since it accommodates two kitchens, although one of them is unused, can be considered a two-family dwelling unit;
3. a variance from Subsection E thereof, to allow the continued use of this student home through June 30, 2013, which is located approximately 200 feet from another student home property line;
4. a variance from Subsection J, in order to eliminate the requirement for a 10 foot wide buffer area along one of the property side lot lines. It presently accommodates vegetation along the rear and the other side property line;
5. a variance from Subsection L thereof, to permit the subject property to be occupied by four students until June 30, 2013;
6. a variance from Subsection N thereof, to allow less than the two paved off-street parking spaces on the property;

The Applicant agrees that, as part of its requested relief, it would be required, as a condition, to pay the annual license fee required under Subsection O of the Ordinance.

Respectfully submitted,

McNAMARA, BOLLA & PANZER

By:



WILLIAM J. BOLLA, ESQ.  
Attorney for Applicant

**ZONING HEARING BOARD APPLICATION**

**TOWNSHIP OF RADNOR**

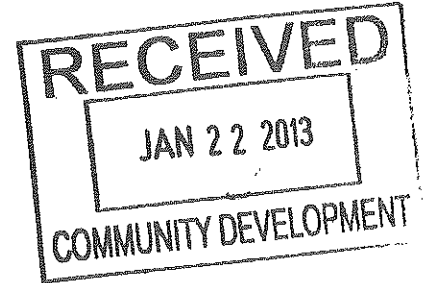
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***PLEASE TYPE OR PRINT***

Property address: 134 North Wayne Avenue, Wayne, PA 19087

Name of applicant: 134 Partners, L.P.

Telephone number: 610-909-4094 Email: Brad@Crossstreetpartners.com

Property Owner (if different than above): \_\_\_\_\_

Property address: \_\_\_\_\_

Telephone number: \_\_\_\_\_ Email: \_\_\_\_\_

Attorney's name: Nicholas J. Caniglia, Esquire

Address: 125 Strafford Avenue, Suite 110, Wayne, PA 19087

Telephone number: 610-688-2626 Email: NCaniglia@aol.com



**Relief requested and/or basis for appearing before the Zoning Hearing Board including specific citation to any and all sections of the Zoning Code relevant to the appeal. (attach additional pages if necessary)**

Applicant intends to establish an ice cream and donut bar on the lower level of the Suburban Building. The proposed use is permitted in the zoning district. Applicant requests relief for the installation of 16 seats for the establishment. Applicant seeks the following zoning relief: (1) A modification of the condition of Appeal No. 2859 limiting the lower level to retail use; (2) A special exception pursuant to 280-101(A) or (B) in that the proposal is a legal non-conformity; (3) A variance or a de minimis variance from section 280-53.12(B)(5) of the Code relating to off-street parking; and/or (4) That the use is permitted as of right.

**Description of previous decisions by the Zoning Hearing Board pertinent to the property, or attach copies of decisions: (attach additional pages if necessary)**

Appeal No. 1407 dated June 23, 1977 granted relief to construct an addition to the existing non-conformity. (Applicant's Exhibit A-4)

Appeal No. 2859 dated June 16, 2011 granting the Applicant permission to use the Premises for retail and offices since it will reduce the existing non-conformity with respect to parking. (Applicant Exhibit A-5)

Appeal No. 2862 granting relief for signage.

**Brief narrative of proposed improvements:**

The Premises is zoned C-2 and is in the Wayne Business Overlay District (WBOD). The construction of the Building predated zoning in Radnor Township. The Building occupies nearly the entire lot, but for four parking spaces in the front of the building in the right-of-way. There is no other on-site parking available or possible. On-street metered parking abuts and surrounds the property. The proposed use is a donut and coffee shop in the morning and ice cream in the afternoon and evening. The service will be counter-style. Generally peak employees will be no more than 2, but could increase to 4 on summer evenings. The space occupies 825 square feet.

Prior to the current ownership, the Building was previously occupied as offices for Suburban Publications and its successors. It consists of 15,083 square feet. The Premises had a prior non-conformity as to off-street parking for 57 (61-4) parking spaces (15,083 Gross S.F. X 80% = 12,066 Net S.F. divided by 200 = 60.332).

The current building has 6,696 gross square feet of retail on the lower and first levels of the Building and 7,562 gross square feet of offices on the second and third levels. The Code requirement for the WBOD is one space for each 300 S.F. of Retail and one space for each 250 S.F. of Office. As a result the Building is currently non-conforming for off-street parking spaces as follows: 6,696 S.F. X 80% = 5,357 divided by 300 = 18 spaces; and 7,562 S.F. X 80% = 6,050 divided by 250 = 25 spaces.

The proposal for seating requires 8 parking spaces calculated as follows: 16 seats divided by 3 = 5.33 plus 4 employees divided 2 = 2. The total number current non-conformity of required off-street parking spaces is 48-4=44. The prior non-conformity is 57. As a result the

current non-conformity reduces the prior existing non-conformity.

**List of Witnesses and Summary of Testimony:**

Brad Palmer and Brad Liermann will testify as to the former, current, and proposed uses of the Premises.

Applicant reserves the right to present additional testimony.

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SIGNATURE OF APPLICANT

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