

**IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT**

QUEST LAND DEVELOPMENT GROUP	:	Nos. 126 & 127 MAL 2007
LLC,	:	
	:	
v.	:	Petition for Allowance of Appeal from the
	:	Order of the Commonwealth Court
ZONING HEARING BOARD OF LOWER	:	entered November 20, 2006, at Nos. 431
HEIDELBERG TOWNSHIP	:	& 432 CD 2006
	:	
LOWER HEIDELBERG TOWNSHIP,	:	
INTERVENOR	:	Application for Leave to File under Seal
	:	the Application for Relief Seeking a
GLEN GERY CORPORATION,	:	Remand on the Basis of After-Discovered
INTERVENOR	:	Evidence, or in the Alternative, Application
	:	for Leave to Amend Petition for Allowance
	:	of Appeal to Request a Remand on the
PETITION OF: QUEST LAND	:	Basis of After-Discovered Evidence
DEVELOPMENT GROUP, LLP AND	:	
GLEN GERY CORPORATION	:	Application for Relief Seeking a Remand
	:	on the Basis of After-Discovered
	:	Evidence, or in the Alternative, Application
	:	for Leave to Amend Petition for Allowance
	:	of Appeal to Request a Remand on the
	:	Basis of After-Discovered Evidence
	:	
	:	Application for Leave to file Post-Allocatur
	:	Submission in the Nature of a Post-
	:	Submission Communication and
	:	Application to File Supplemental
	:	Memorandum of Law

ORDER

PER CURIAM

DECIDED: October 17, 2007

AND NOW, this 17th day of October, 2007, it is hereby ordered that:

- (1) The Application for Leave to File Under Seal the Application for Relief Seeking a Remand on the Basis of After-Discovered Evidence, or in the Alternative, Application for Leave to Amend Petition for Allowance of Appeal to Request a Remand on the Basis of After-Discovered Evidence is granted;
- (2) The Alternative Application for Leave to Amend Petition for Allowance of Appeal to Request a Remand on the Basis of After-Discovered Evidence is granted;
- (3) The Petition for Allowance of Appeal, as amended is granted;
- (4) This case is remanded to the Commonwealth Court for remand to the Court of Common Pleas of Berks County, Pennsylvania, with instructions to the Court of Common Pleas to consider whether upon motion of Petitioners, the statutory appeal at No. 05-4461 should be opened on the basis of after-discovered evidence, see Brannagan v. Great Atlantic Pacific & Tea Co., 41 A.2d 869, 870 (Pa. 1945), and if so, whether upon motion of Petitioners, additional evidence should be received under Section 1005-A of the Municipalities Planning Code, 53 P.S. §11005-A;
- (5) The Application for Relief Seeking a Remand on the Basis of After-Discovered Evidence is denied as moot.
- (6) The original Petition for Allowance of Appeal is denied as moot; and
- (7) The Application for Leave to File Post-Allocatur Submission in the Nature of a Post-Submission Communication and Application to File Supplemental Memorandum of Law is denied as moot.

The Prothonotary is directed to file the above-referenced Applications under seal.