

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :
: No. 2014-20
APPLICATION OF TRANG H. LE / LP :
NAILS :

DECISION

I. FINDINGS OF FACT

1. Applicant is Trang H. Le / LP Nails, 2386 Lincoln Highway East, Lancaster, Pennsylvania 17602 ("Applicant").

2. The property which is the subject of the instant application is 2386 Lincoln Highway East, East Lampeter Township, Lancaster County, Pennsylvania (the "Property").

3. The Property is located in the R-2 Residential District as shown on the Official Zoning Map of East Lampeter Township.

4. Applicant is the owner of the Property.

5. Notice of the hearing on the within application was duly advertised and posted in accordance with the provisions of the Pennsylvania Municipalities Planning Code ("MPC") and The Revised Zoning Ordinance of East Lampeter Township - 1990 (the "Zoning Ordinance").

6. Public hearings were held before the Zoning Hearing Board of East Lampeter Township ("Board") on this application on July 10, 2014, and July 24, 2014.

7. Testimony at the hearings was stenographically recorded.

8. Nancy Tipton, of Lancaster Signs, appeared at the hearings.

9. Applicant appeared at the hearing held on July 24, 2014.

10. The Property was the subject of previous zoning hearings and the Board takes administrative notice of its Decisions in Case Nos. 2006-01, 2006-05, and 2007-41.

11. In Case No. 2006-01, the Board denied Applicant a special exception and variance to operate a nail salon as a home occupation utilizing 1,000 square feet of the residence and also denied Applicant's request for a sign containing 32 square feet of sign area.

12. In Case No. 2006-05, the Board granted Applicant a special exception in order to conduct a nail salon business as a home occupation utilizing 500 square feet of the residence with a sign containing 2 square feet of sign area.

13. In Case No. 2007-41, the Board granted Applicant a variance from Section 1605, Table 1, of the Zoning Ordinance in order to erect two signs for the nail salon business, each sign containing 6 square feet of sign area.

14. Applicant has now again requested variances from Section 1605, Table 1, of the Zoning Ordinance. With regard to Applicant's home occupation nail salon business, Applicant now desires to utilize an illuminated freestanding sign containing 24 square feet

of sign area and an illuminated building sign containing 24 square feet of sign area.

15. Section 1605, Table 1, of the Zoning Ordinance limits home occupation signs to 2 square feet of sign area.

16. Applicant's representative testified that the general area in the vicinity of the Property contains more business signage and cited the Target Shopping Center across the street.

17. Although Applicant's representative testified that the increase in surrounding signage and the general increase in traffic make it difficult to notice the current nail shop signage, the Board finds such testimony to be not credible.

18. Moreover, the Property is located within the Residential R-2 District and the primary use of the Property is to be residential, not commercial. Home occupations are to be incidental or secondary to the use of the Property as a residence.

II. CONCLUSIONS OF LAW

1. An applicant for a variance bears the burden of proving that unnecessary hardship will result if the variance is not granted and that the grant of the proposed variance will not be contrary to the public interest. Valley View Civic Association v. Zoning Board of Adjustment, 501 Pa. 550, 462 A.2d 637 (1983); Zaruta v. Zoning Hearing Board of the City of Wilkes-Barre, 117 Pa. Commonwealth Ct. 526, 543 A.2d 1282 (1988); MPC §910.2.

2. A variance, if granted, must be the minimum that will afford relief and will represent the least modification of the zoning ordinance. Rogers v. Zoning Hearing Board of East Pikeland Township, 103 Pa. Commonwealth Ct. 478, 520 A.2d 922 (1987); MPC §910.2(a)(5).

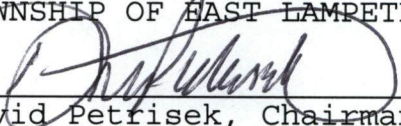
3. It is possible to reasonably and safely utilize the Property with the signage approved by the Board in Case No. 2007-41. Further variances are not needed to allow reasonable use of the Property.

4. Applicant has failed to demonstrate evidence sufficient to warrant the granting of the requested variances.

III. DECISION

Based upon the foregoing findings of fact and conclusions of law, the Zoning Hearing Board of the Township of East Lampeter hereby denies the application of Trang H. Le / LP Nails for further variances from Section 1605, Table 1, of the Zoning Ordinance.

ZONING HEARING BOARD OF THE
TOWNSHIP OF EAST LAMPETER



David Petrisek, Chairman

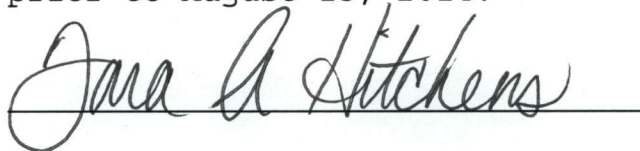
James Glick, Vice-Chairman



Walter Siderio, Secretary

Dated and filed August 14, 2014, after hearings held on July 10, 2014, and July 24, 2014.

The undersigned certifies that a copy of this Decision was served upon all parties on or prior to August 15, 2014.

A handwritten signature in cursive script, reading "Jana A. Hitchens", is written over a solid horizontal line.