

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :  
: No. 2016-05  
APPLICATION OF DAVID E. BOYD :  
AND KATHLEEN L. BOYD :

DECISION

I. FINDINGS OF FACT

1. Applicants are David E. Boyd and Kathleen L. Boyd, 469 Mount Sidney Road, Lancaster, Pennsylvania 17602 ("Applicants").
2. The property which is the subject of the instant application is 469 Mount Sidney Road, 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. Applicants are the equitable owners 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. A public hearing was held before the Zoning Hearing Board of East Lampeter Township ("Board") on this application on January 14, 2016.

7. Testimony at the hearing was stenographically recorded.

8. Applicants were represented at the hearing by Sheila O'Rourke, Esquire.

9. Applicants have requested a special exception pursuant to Section 902.7 and Section 1916 of the Zoning Ordinance.

10. Although Applicants also appealed from a Notice of Violation issued by East Lampeter Township, the appeal was determined to be moot based upon the findings and conclusions set forth in this Decision.

11. The Property is currently improved with a single family dwelling and accessory garage structure.

12. Applicants reside within the dwelling.

13. The dwelling contains approximately 1,200 square feet of floor area.

14. Applicants desire to conduct a home office for Applicants' hvac business as a home occupation within a portion of the dwelling containing approximately 140 square feet (10 feet by 14 feet).

15. There will be no non-resident employees of the home occupation.

16. No customers would come to the Property.

17. No equipment orders for the business are shipped to the Property.

18. All equipment, tools and inventory are stored in two work vans. Applicants park one of the vans at the Property and use it to travel to work sites. The other van is used by Applicants' business partner and is not kept on the Property.

19. Applicants also have a small utility trailer (6 foot by 12 foot) that is used for both personal and business purposes. It does not bear the business name.

20. Applicants will not store any materials for the business either within the dwelling or within any accessory structures. There will be no outside storage on the Property of any materials for the business.

21. No hvac work is performed at the Property. All such work (repairs/installations) is done at the customer's site.

22. There is no business sign located upon the Property.

23. All correspondence, billing and other paperwork related to the business is to be conducted in the home office.

24. The proposed home occupation will be incidental or secondary to the use of the Property as a dwelling and is an occupation which is customarily conducted within a dwelling.

25. No displays or alterations to the outside of the dwelling will indicate that the dwelling is being utilized for purposes other than a dwelling.

26. There is adequate parking located on the Property for both the residential use and the home occupation use.

## II. CONCLUSIONS OF LAW

1. An applicant for a special exception has the burden of persuasion as to the specific criteria and standards of the zoning ordinance. Abbey v. Zoning Hearing Board of the Borough of East Stroudsburg, 126 Pa. Commonwealth Ct. 235, 559 A.2d 107 (1989); Bray v. Zoning Board of Adjustment of the City of Philadelphia, 48 Pa. Commonwealth Ct. 523, 410 A.2d 909 (1980).

2. Section 902.7 of the Zoning Ordinance permits home occupations by special exception within the R-2 Residential District subject to the provisions of Section 1916.

3. With conditions, Applicants have satisfied the requirements for a special exception pursuant to Section 902.7 and Section 1916.

4. Conditions must be imposed on the granting of the special exception in order to preserve and protect the surrounding neighborhood and the purposes of the Zoning Ordinance.

## III. DECISION

Based upon the foregoing findings of fact and conclusions of law, the Zoning Hearing Board of the Township of East Lampeter hereby grants the application of David E. Boyd and Kathleen L. Boyd for a special exception pursuant to Section 902.7 of the Zoning Ordinance and Section 1916.10 of the Zoning Ordinance. This

special exception shall be subject to the following conditions and safeguards which the Board deems necessary to implement the purposes of the Zoning Ordinance and the MPC:

1. Applicants shall obtain all approvals and permits required by applicable federal, state and Township laws and regulations.

2. Applicants shall at all times comply with and adhere to the information and representations submitted with and contained in their application and the evidence presented to the Board at the hearing held on January 14, 2016.

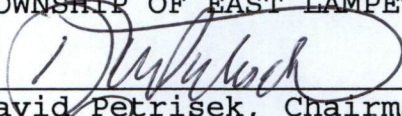
3. There shall be no storage of any materials related to the hvac business within any accessory structure located upon the Property.

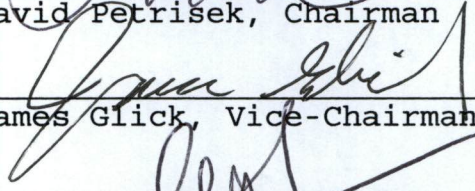
4. Only one trailer, not exceeding 6 feet by 12 feet, shall be permitted on the Property. The trailer shall not contain any lettering associated with Applicants' hvac business.

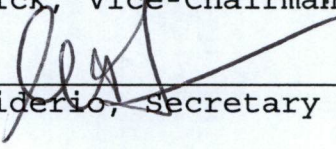
5. Any violation of the conditions contained in this Decision shall be considered a violation of the Zoning Ordinance and shall be subject to the penalties and remedies contained in the Pennsylvania Municipalities Planning Code.

6. The foregoing Decision shall be binding upon the Applicants and their heirs and assigns.

ZONING HEARING BOARD OF THE  
TOWNSHIP OF EAST LAMPETER

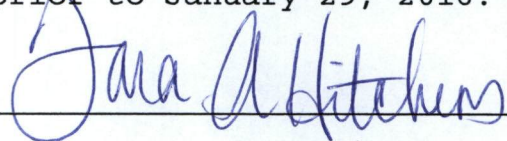
  
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David Petrisek, Chairman

  
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James Glick, Vice-Chairman

  
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Walter Siderio, Secretary

Dated and filed January 28, 2016, after hearing held on  
January 14, 2016.

The undersigned certifies that a copy of this Decision was  
served upon all parties on or prior to January 29, 2016.

  
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