

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :  
: No. 2016-17  
APPLICATION OF THANH NGUYEN :

DECISION

I. FINDINGS OF FACT

1. Applicant is Thanh Nguyen, 1734 Lincoln Highway East, Lancaster, Pennsylvania 17602 ("Applicant").

2. The property which is the subject of the instant application is 1734 Lincoln Highway East, East Lampeter Township, Lancaster County, Pennsylvania (the "Property").

3. The owner of the Property is Luat Pham.

4. The Property is located within the C-2 Commercial District as shown on the Official Zoning Map of East Lampeter Township.

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 June 9, 2016.

7. Testimony at the hearing was stenographically recorded.

8. Applicant appeared personally at the hearing.

9. The Property is improved with a single family dwelling.

10. Applicant and his fiancée reside within the dwelling.

11. Applicant and his fiancée desire to conduct a nail salon business within a portion of the dwelling.

12. The size of the area to be used for the nail salon business is 19'3" by 21'4".

13. The nail salon business will utilize two "stations" for patrons.

14. No alterations will be made to the outside of the dwelling.

15. Applicant testified that there are five (5) off-street parking spaces on the Property.

16. To the east of the Property is an accounting office.

17. To the west of the Property is a carwash.

18. Across the street from the Property are predominantly residential uses.

19. There is a vacant parcel behind the Property.

20. At the hearing it was determined that Applicant requires: (i) a special exception pursuant to Section 1202.1 of the Zoning Ordinance; and (ii) a variance from the terms of Section 1931.2 of the Zoning Ordinance.

21. No persons appeared in opposition to the Application.

## II. CONCLUSIONS OF LAW

1. Section 1202.1 of the Zoning Ordinance authorizes single family dwellings by special exception within the C-2 Commercial District, subject to the provisions of Section 1931.

2. Section 1931 of the Zoning Ordinance sets forth the specific requirements for single family dwellings within the C-2 Commercial District.

3. Section 1931.2 of the Zoning Ordinance states that the dwelling cannot be in connection with a business use.

4. An applicant for a special exception has the burden of proof 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).

5. With the exception of Section 1931.2, Applicants have met the requirements of Section 1931 of the Zoning Ordinance.

6. Applicant requires a variance from the terms of Section 1931.2 of the Zoning Ordinance in order to conduct the proposed nail salon business.

7. 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); Pennsylvania Municipalities Planning Code ("MPC") §910.2.

8. Applicant has established the traditional grounds for a variance.

9. Conditions must be attached to the granting of the special exception and variance to protect and preserve the surrounding neighborhood.

### 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 Thanh Nguyen for: (i) a special exception pursuant to Section 1202.1 of the Zoning Ordinance to permit a single family dwelling use upon the Property; and (ii) a variance from the terms of Section 1931.2 of the Zoning Ordinance in order to permit Applicant to operate a nail salon business within the dwelling located upon the Property. The special exception and variance 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. Applicant shall obtain all approvals and permits required by applicable federal, state and Township laws and regulations.

2. Applicant shall at all times comply with and adhere to the information and representations submitted with and contained in his application and the evidence presented to the Board at the hearing held on June 9, 2016.

3. Applicant shall at all times comply with the off-street parking space requirements of the Zoning Ordinance.

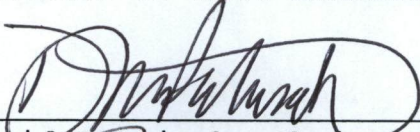
4. Any violation of the conditions contained in this Decision shall be considered a violation of the Zoning Ordinance and shall

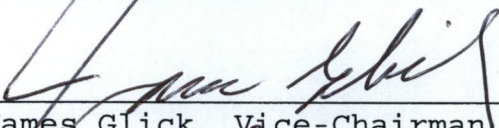
be subject to the penalties and remedies contained in the Pennsylvania Municipalities Planning Code.

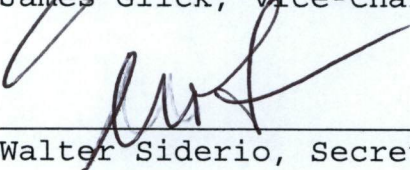
5. The approval granted by this Decision shall expire if Applicant does not obtain a zoning permit within three (3) months from the date of this Decision and does not complete construction of the improvements, if any, so authorized and commence the use so authorized within twelve (12) months from the date of the permit.

6. The foregoing Decision shall be binding upon the Applicant and his heirs and assigns.

ZONING HEARING BOARD OF THE  
TOWNSHIP OF EAST LAMPETER

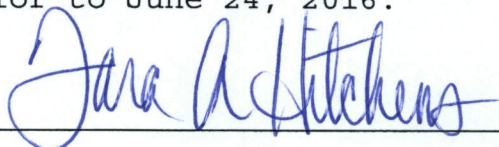
  
\_\_\_\_\_  
David Petrisek, Chairman

  
\_\_\_\_\_  
James Glick, Vice-Chairman

  
\_\_\_\_\_  
Walter Siderio, Secretary

Dated and filed June 23, 2016, after hearing held on June 9, 2016.

The undersigned certifies that a copy of this Decision was served upon all parties on or prior to June 24, 2016.

  
\_\_\_\_\_