

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :
: No. 2017-2
APPLICATION OF JOHN LAPP :

DECISION

I. FINDINGS OF FACT

1. Applicant is John Lapp, 2220 Horseshoe Road, Lancaster, Pennsylvania 17601 ("Applicant").

2. The property which is the subject of the instant application is 2220 Horseshoe Road, East Lampeter Township, Lancaster County, Pennsylvania (the "Property").

3. Applicant is the owner of the Property.

4. The Property is located within the AG-Agricultural 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 East Lampeter Township of 2016 (the "Zoning Ordinance").

6. A public hearing was held before the Zoning Hearing Board of East Lampeter Township ("Board") on this application on February 23, 2017.
7. Testimony at the hearing was stenographically recorded.
8. Applicant appeared personally at the hearing.
9. Applicant has requested: (i) an appeal/special exception pursuant to Section 24030.A of the Zoning Ordinance in order to expand a nonconforming use; or, in the alternative, (ii) a special exception pursuant to Section 24030.C of the Zoning Ordinance in order to substitute a nonconforming use.
10. The Property is improved with various buildings.
11. One of the buildings contains 4 apartments and an office.
12. Use of the building for apartments is a valid nonconforming use.
13. The office was accessory to a manufacturing business which was conducted on the Property. The manufacturing business was a nonconforming use.
14. Applicant desires to expand the number of apartments within the residential building. More particularly, the office will be converted into a 2 bedroom apartment.
15. There are at least 11 parking spaces on the Property which are available for the apartment building use.

II. CONCLUSIONS OF LAW

1. 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).

2. The applicant for a special exception bears the burden of proving that he will comply with all requirements of the zoning ordinance relative to the use intended. Ralph & Joanne's, Inc. v. Neshannock Township Zoning Hearing Board, 121 Pa. Commonwealth Ct. 83, 550 A.2d 586 (1988).

3. Applicant has satisfied the requirements for an appeal/special exception pursuant to Section 24030.A of the Zoning Ordinance to expand the nonconforming apartment building use, including the requirements set forth in Section 24030.J 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 for an appeal/ special exception pursuant to the terms of Section 24030.A of the Zoning Ordinance to

expand the nonconforming apartment building use to add one additional apartment. Having granted the appeal/special exception pursuant to Section 24030.A of the Zoning Ordinance, the request in the alternative (for a special exception pursuant to Section 24030.C) to substitute a nonconforming use is moot. The special exception granted herein 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:

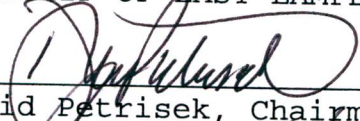
1. Applicant shall obtain all approvals and permits required by applicable federal, state and Township laws and regulations.

2. Applicant shall at all times comply with and adhere to the information and representations submitted with and contained in its application and the evidence presented to the Board at the hearing held on February 23, 2017.

3. 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.

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

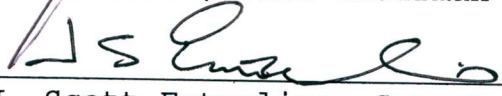
ZONING HEARING BOARD OF THE
TOWNSHIP OF EAST LAMPETER



David Petrisek, Chairman



James Glick, Vice-Chairman



J. Scott Enterline, Secretary

Dated and filed March 9, 2017, after hearing held on February 23, 2017.

The undersigned certifies that a copy of this Decision was served upon all parties on or prior to March 10, 2017.

