

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :
 : No. 2017-11
APPLICATION OF ALVIN YODER :

DECISION

I. FINDINGS OF FACT

1. Applicant is Alvin Yoder, 3139 Irishtown Road, Gordonville, Pennsylvania 17529 ("Applicant").

2. The property which is the subject of the instant application is 71 North Soudersburg 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 hearings 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 Zoning Ordinance of 2016 (the "Zoning Ordinance").

6. Public hearings were held before the Zoning Hearing Board of East Lampeter Township ("Board") on this application on September 14, 2017, and September 28, 2017.

7. Testimony at the hearings was stenographically recorded.

8. Applicant appeared personally at the hearings.

9. John Coldiron also appeared at the hearings and testified on behalf of Applicant.

10. The Property was the subject of a previous zoning hearing and the Board takes administrative notice of its Decision in Case No. 2005-45.

11. In Case No. 2005-45, the Board granted a special exception in order to substitute an engineering design company business for a nonconforming contractor's business use.

12. Applicant has now requested a special exception pursuant to Section 24030.C of the Zoning Ordinance.

13. Section 24030.C of the Zoning Ordinance authorizes the substitution of a nonconforming use by special exception and sets forth specific provisions and requirements.

14. Applicant desires to substitute a Trex poly lawn furniture assembly business for the engineering design company.

15. The Property is currently improved with an L-shaped building, and accessory parking, as more fully shown on the plan submitted by Applicant.

16. Applicant will employ 2 persons to work at the Property.

17. Applicant anticipates approximately 6 trucks per month for deliveries.

18. Applicant's normal days and hours of operation will be Monday through Friday, 7:00 a.m. until 5:00 p.m. Occasionally, there may be Saturday operations between 7:00 a.m. and 5:00 p.m.

19. There will be no outside storage.

20. Applicant's proposed use will not generate any more noise or traffic than the previous use of the Property.

21. The substitution of use will not injure or detract from the use of neighboring properties.

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. Applicant has presented sufficient testimony to establish that the proposed use of the Property would not be more detrimental than the previous use of the Property.

3. Applicant has satisfied the specific requirements of Section 24030.C of the Zoning Ordinance with regard to the proposed substitution.

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

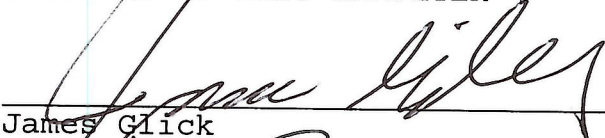
Based upon the foregoing findings of fact and conclusions of law, the Zoning Hearing Board of the Township of East Lampeter hereby grants the application of Alvin Yoder for a special exception pursuant to Section 24030.C of the Zoning Ordinance in order to substitute a Trex poly lawn furniture assembly business for an engineering design company business. The 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. 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 hearings.
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. There shall be no outside storage.

5. The approval granted by this Decision shall expire if Applicant does not obtain a zoning permit within twelve (12) months from the date 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 zoning 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



James Glick



J. Scott Enterline



Lester Weaver

Dated and filed October 26, 2017, after hearings held on September 14, 2017, and September 28, 2017.

The undersigned certifies that a copy of this Decision was served upon all parties on or prior to October 27, 2017.

