

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :
 : No. 2017-25
APPLICATION OF STERMER BROTHERS :
STOVES AND SPAS, INC. :

DECISION

I. FINDINGS OF FACT

1. Applicant is Stermer Brothers Stoves and Spas, Inc., 1330 Harrisburg Pike, Lancaster, Pennsylvania 17603 ("Applicant").

2. The property which is the subject of the instant application is 2119 New Holland Pike, East Lampeter Township, Lancaster County, Pennsylvania (the "Property").

3. Applicant is the lessee of the Property.

4. The Property is located within the R-2 Residential 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 Zoning Ordinance 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 December 14, 2017.

7. Testimony at the hearing was stenographically recorded.

8. Applicant was represented at the hearing by Derek Dissinger, Esquire.

9. Paul Stermer and Emily Kilgore appeared at the hearing and testified on behalf of Applicant.

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

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

12. Applicant desires to substitute a retail store for the sale of fireplaces, stoves, tools and accessories for the previous nonconforming use.

13. The previous nonconforming use was a retail sales / consignment store.

14. Applicant also performs some service / repairs, but the majority of such service and repairs take place off the premises at customer's homes.

15. Applicant will employ 2 persons to work in the showroom. There is also an installation crew which works off premises at customer's homes.

16. Applicant testified that, in its busy season, there would be approximately 3 customer vehicles on the premises at any one time.

17. Applicant's normal days and hours of operation will be: (i) Monday and Friday, 10:00 a.m. until 8:00 p.m.; (ii) Tuesday, Wednesday and Thursday, 10:00 a.m. until 5:00 p.m.; Saturday, 10 a.m. until 4:00 p.m. There would be no Sunday operations.

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

19. 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 Stermer Brothers Stoves and Spas, Inc., for a special exception pursuant to Section 24030.C of the Zoning Ordinance in order to substitute a retail store for the sale of fireplaces, stoves, tools and accessories for the retails sales / consignment shop 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.

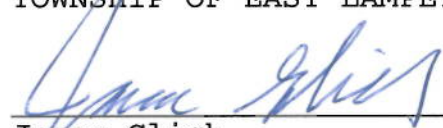
2. Applicant shall at all times comply with and adhere to the information and representations submitted with and contained in its application and the evidence presented to the Board at the hearings.

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. The approval granted by this Decision shall expire in accordance with the terms of Section 25070 of the Zoning Ordinance.

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

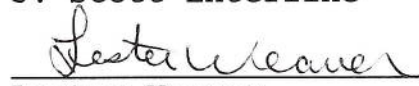
ZONING HEARING BOARD OF THE
TOWNSHIP OF EAST LAMPETER



James Glick



J. Scott Enterline



Lester Weaver

Dated and filed January 10, 2018, after hearing held on December 14, 2017.

The undersigned certifies that a copy of this Decision was served upon all parties on or prior to January 11, 2018.

