

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :
: No. 2019-20
APPLICATION OF NATE'S AUTOMOTIVE, :
LLC :

DECISION

I. FINDINGS OF FACT

1. Applicant is Nate's Automotive, LLC, 239 Maple Avenue, Bird-in-Hand, Pennsylvania 17505 ("Applicant").
2. The property which is the subject of the instant application is 239 Maple Avenue, East Lampeter Township, Lancaster County, Pennsylvania (the "Property").
3. Applicant is the owner of the Property.
4. The Property is located within the Bird-in-Hand 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 December 12, 2019.

7. Testimony at the hearing was stenographically recorded.

8. Steve Gergely and Jerry Book appeared at the hearing on behalf of the Applicant.

9. Applicant has requested: (i) a special exception pursuant to Section 24030.A.2 of the Zoning Ordinance in order to expand a nonconforming use; (ii) a variance from Section 24030.A.2 of the Zoning Ordinance to expand the nonconforming use by 51%; and (iii) a variance from Section B-3 and G-2 of the design guidelines for the Bird-in-Hand District to defer the installation of curbs and sidewalks.

10. The Property contains approximately 1.02 acres.

11. The Property is improved with an auto repair garage building (containing 3,247 square feet of floor area with six service bays), a detached office building used for the auto repair business (containing 959 square feet of floor area), a detached garage used as part of the auto repair business (containing 1,096 square feet of floor area), a single family dwelling and a mobile home.

12. The auto repair business is a valid nonconforming use.

13. Applicant desires to demolish/remove the existing detached garage and the mobile home.

14. Applicant proposes to construct a new auto repair garage building containing 3,792 square feet of floor area, as shown on the plans submitted by Applicant.

15. The new auto repair garage building will contain five (5) service bays.

16. The proposed expansion represents a net 51% expansion of the existing nonconforming use.

17. The Property has sufficient parking for the auto repair garage use as proposed by Applicant.

18. Currently there is no curbing or sidewalk along Maple Avenue in the vicinity of the Property.

19. Applicant testified that it will submit a land development plan to the Township. The Township Subdivision and Land Development Ordinance contains a requirement for curbing and sidewalk and the Applicant will request a deferral of the requirement to install curbing and sidewalk.

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. With the exception of Section 24030.A.2, Applicant has satisfied the requirements for a special exception pursuant to Section 24030.A of the Zoning Ordinance to expand the nonconforming auto repair business use, including the requirements set forth in Section 24030.J of the Zoning Ordinance.

4. Applicant requires a variance from Section 24030.A.2 of the Zoning Ordinance, which states that the maximum expansion shall be limited to 50% of the existing usable floor area.

5. Applicant's request for a variance from Section 24030.A.2 is de minimis in nature.

6. Applicant has also requested a variance from Section B-3 and G-2 of the design guidelines for the Bird-in-Hand District to defer the installation of curbs and sidewalks.

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 presented evidence to establish that the Zoning Ordinance imposes an unnecessary hardship and has satisfied the requirements for such variance.

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: (i) a special exception pursuant to Section 24030.A.2 of the Zoning Ordinance in order to expand a nonconforming use; (ii) a variance from Section 24030.A.2 of the Zoning Ordinance to expand the nonconforming use by 51%; and (iii) a variance from Section B-3 and G-2 of the design guidelines for the Bird-in-Hand District to defer the installation of curbs and sidewalks. The approvals 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:

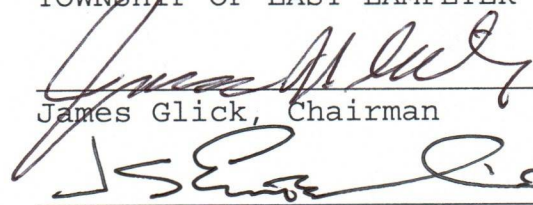
1. Applicant shall obtain all approvals and permits required by applicable federal, state and Township laws and regulations.

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 December 12, 2019.

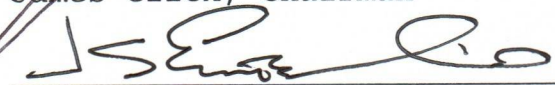
3. Any violation of the conditions contained in this Decision shall be considered a violation of the Zoning Ordinance and shall be subject to the penalties and remedies contained in the Pennsylvania Municipalities Planning Code.

4. The foregoing Decision shall be binding upon the Applicant and its successors and assigns.

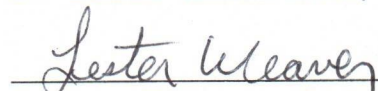
ZONING HEARING BOARD OF THE
TOWNSHIP OF EAST LAMPETER



James Glick, Chairman



J. Scott Enterline, Vice-Chairman



Lester Weaver, Secretary

Dated and filed January 9, 2020, after hearing held on December 12, 2019.

The undersigned certifies that a copy of this Decision was served upon all parties on or prior to January 10, 2020.

