

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :
: No. 2019-22
APPLICATION OF PETER BHAI :

DECISION

I. FINDINGS OF FACT

1. Applicant is Peter Bhai, 5159 West Woodmill Drive, Suite 15, Wilmington, DE 19808 ("Applicant").

2. The property which is the subject of the instant application is known as 2205 and 2217 Lincoln Highway East, East Lampeter Township, Lancaster County, Pennsylvania (the "Property").

3. The Property is located in the Regional Commercial C-3 Zoning District as shown on the Official Zoning Map of East Lampeter Township.

4. Applicant is the equitable owner of the Property.

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 Zoning Ordinance of 2016 (the "Zoning Ordinance").

6. After a continuance requested by the Applicant, a public hearing was held before the Zoning Hearing Board of East Lampeter Township ("Board") on this application on January 9, 2020.

7. Testimony at the hearing was stenographically recorded.

8. Brent Good, of ELA Group, Inc., and Matt Ott, appeared and testified on behalf of Applicant.

9. Applicant initially requested: (i) a special exception pursuant to Section 10020.C.4 the Zoning Ordinance to operate an extended stay hotel; (ii) a variance from the terms of Section 22150.1 of the Zoning Ordinance regarding off-street loading spaces; and (iii) a variance from the terms of Section 23400.4 of the Zoning Ordinance regarding maximum building height.

10. At the hearing, it was determined that, based upon amendments to the application (both proposed hotels will be extended stay hotels), Applicant does not require a variance from the terms of Section 23400.4 of the Zoning Ordinance regarding maximum building height.

11. Section 10020.C.4 of the Zoning Ordinance states that extended stay hotels are permitted in the Regional Commercial C-3 District subject to the requirements set forth in Section 23400 of the Zoning Ordinance.

12. Section 22150.1 of the Zoning Ordinance sets forth the number of required off-street loading spaces.

13. The Property contains approximately 7 acres (gross) and is located across from Tanger Outlets Shopping Center.

14. Applicant proposes to remove existing improvements and construct two hotels upon the Property, as more fully shown on the plans submitted by Applicant.

15. One of the hotels will be a Hyatt House and the other hotel will be a Townplace by Marriott.

16. Both hotels will be extended stay hotels.

17. The Hyatt House hotel will contain 109 hotel units and the Townplace by Marriott will contain 96 hotel units.

18. Both hotels will be four stories.

19. The Hyatt House hotel will not exceed 65 feet in height and the Townplace by Marriott hotel will not exceed 60 feet in height (more particularly, it will be approximately 50 feet in height).

20. There will be kitchens in each hotel room.

21. Each hotel has an indoor pool, breakfast area, small meeting room and small exercise room. The Hyatt House will have a small bar.

22. The cumulative gross floor area of all accessory uses does not occupy more than 20% of the cumulative gross floor area for each hotel.

23. Typically, guests stay longer than 5 nights.

24. Applicant will provide 225 parking spaces.

25. Applicant proposes 1 off-street loading space for the Hyatt House and 1 off-street loading space for the Townplace by Marriott. The proposal is based upon the limited number of deliveries (approximately 3) per month.

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. An 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 presented sufficient testimony to establish compliance with Section 23400 of the Zoning Ordinance which sets forth the specific requirements for extended stay hotels, as well as the general requirements applicable to all special exception uses.

4. With regard to the number of off-street loading spaces, Applicant requires a variance from the terms of Section 22150.1 of the Zoning Ordinance.

5. 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.

6. A variance, if granted, "must be the minimum that will afford relief and will represent the least modification of the ordinance." Rogers v. Zoning Hearing Board of East Pikeland Township, 103 Pa. Commonwealth Ct. 478, 520 A.2d 922, 924 (1987); MPC §910.2(a)(5).

7. Applicant has satisfied the requirements for the variance as requested.

8. Conditions must be attached to the grant 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 Peter Bhai for: (i) a special exception pursuant to Section 10020.C.4 of the Zoning Ordinance to operate two extended stay hotels; and (ii) a variance from the terms of Section 22150.1 of the Zoning Ordinance regarding minimum number of off-street loading spaces. 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.

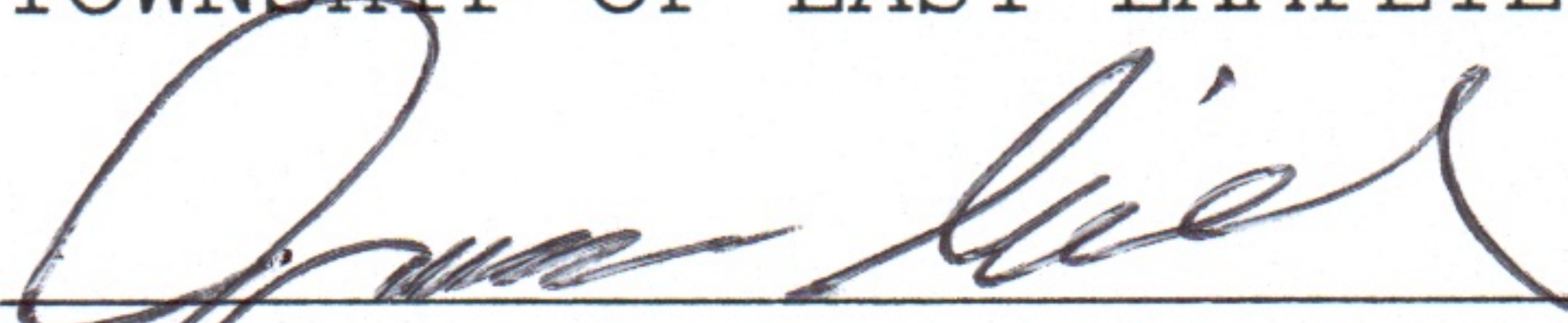
2. Applicant shall at all times comply with and adhere to the information and representations submitted with and contained in its application and the evidence presented to the Board at the hearing held on January 9, 2020.

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.

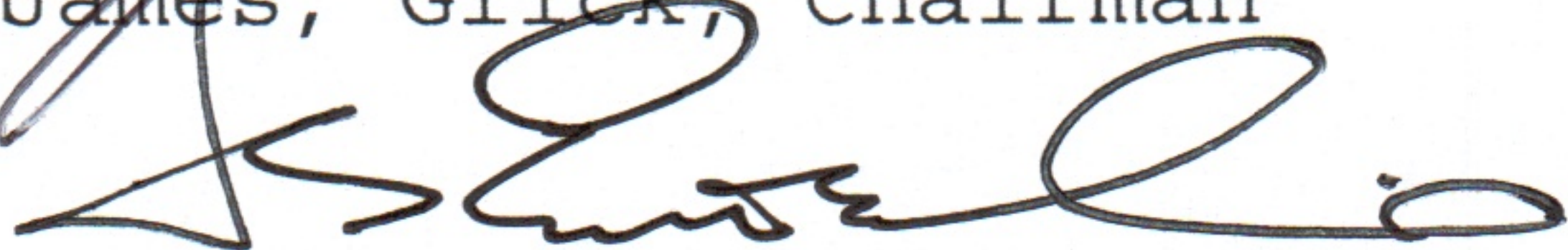
4. The approval granted by this Decision shall expire in accordance with the applicable terms of the Zoning Ordinance.

5. The foregoing Decision shall be binding upon the Applicant and his personal representatives, heirs, 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 23, 2020, after hearing held on January 9, 2020.

The undersigned certifies that a copy of this Decision was served upon all parties on or prior to January 24, 2020.

