

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :
 : No. 2021-03
APPLICATION OF LEISURE LIVING, INC. :

DECISION

I. FINDINGS OF FACT

1. Applicant is Leisure Living, Inc., c/o Ed Hollinger, P.O. Box 100, East Earl, Pennsylvania 17519 ("Applicant").

2. The property which is the subject of the instant application is 1728 Lincoln Highway East, East Lampeter Township, Lancaster County, Pennsylvania (the "Property").

3. The Property is located in the Mixed Use District as shown on the Official Zoning Map of East Lampeter Township.

4. 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").

5. A public hearing was held before the Zoning Hearing Board of East Lampeter Township ("Board") on this application on March 25, 2021.

6. Testimony at the hearing was stenographically recorded.

7. Applicant was represented at the hearing by John A. Mateyak, Esquire.

8. Todd Shoaf, of Pioneer Management, LLC, appeared at the hearing and testified on behalf of Applicant.

9. Ed Hollinger, the owner of Applicant, also appeared at the hearing 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. 2018-25.

11. After an extension of time previously granted by the Board, the approvals granted in Case No. 2018-25 will expire if Applicant fails to obtain all approvals on or before January 24, 2023, and does not complete construction of the improvements within one (1) year of obtaining all approvals, but no later than January 24, 2024.

12. Applicant desires to make modifications to the plan approved by the Board in Case No. 2018-25 and has now requested:

(i) a special exception pursuant to Section 24030.A for expansion of non-conforming use;

(ii) a variance from Section 24030.A.2 with regard to maximum expansion of a nonconforming use; and

(iii) a variance from Section 23150.C.9 with regard to length of stacking lane.

13. The Property contains approximately +/- 31,577 square feet (gross) of land.

14. The Property is located at the southwest corner of Lincoln Highway and Tennyson Drive.

15. The Property currently contains the following improvements:

(i) +/- 3,027 square foot building containing 1 automated wash bay, 5 self serve wash bays and a mechanical room ("Existing Building");

(ii) 8 vacuum stations located to the rear of the Existing Building; and

(iii) 1 vacuum station located in front of the Existing Building.

16. The Property has been operated as a car wash for over 49 years.

17. In Case No. 2018-25, the Board approved Applicant's application to replace the Existing Building with a new expanded building to accommodate two automated wash bays and mechanical room to accommodate the equipment necessary for automated facilities. The Board approved the plan for a +/- 4,509 square feet building with the 4 self serve bays and 2 automated bays ("New Building").

18. Applicant now desires to increase the size of the proposed New Building, as more fully shown on the plans and materials ("the Plans") submitted by Applicant.

19. The New Building will now contain 5,067 square feet of area (an increase of 567 square feet over the previously approved building).

20. Applicant now proposes three (3) automated wash bays and three (3) self service bays, along with the mechanical room, all as shown on the Plans.

21. The total expansion represents an approximate 83% cumulative expansion from the time of the Existing Building's original construction.

22. The total expansion will not add any additional wash bays.

23. Each automated bay will have a stacking lane as more fully shown on the Plans.

24. Although two of the automated bays will have stacking lanes which have lengths in compliance with the requirements of Section 23150.C.9 of the Zoning Ordinance (minimum length of 100 feet), one of the automated bays will have a stacking lane approximately 76 feet in length.

25. Along with the replacement of the Existing Building, Applicant proposes a number of other improvements/changes that were more fully detailed in the Board's Decision in Case No. 2018-25. Except as modified in the current case, all of those improvement/changes shall be made.

II. CONCLUSIONS OF LAW

1. With regard to Applicant's request for the aforementioned special exception, "to be entitled to a special exception, an applicant must bring the proposal within the specific requirements in the zoning ordinance." Act I, Inc. v. Zoning Hearing Board of Bushkill Township, 704 A.2d 732, 735 (Pa. Cmwlth. 1997).

2. With the exception of certain sections of the Zoning Ordinance for which the above-reference variances have been requested, Applicant has satisfied the requirements for the aforementioned special exceptions.

3. With regard to Applicant's request for the aforementioned variances, 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.

4. 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 Town-

ship, 103 Pa. Commonwealth Ct. 478, 520 A.2d 922, 924 (1987); MPC §910.2(a)(5).

5. Applicant has presented evidence sufficient to establish that unnecessary hardship will result if the variances are not granted, that the grant of the proposed variances will not be contrary to the public interest, and that the variances requested are the minimum that will afford relief and will represent the least modification of the 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: (i) a special exception pursuant to Section 24030.A for expansion of non-conforming use; (ii) a variance from Section 24030.A.2 with regard to maximum expansion of a nonconforming use; and (iii) a variance from Section 23150.C.9 with regard to length of stacking lane. The special exception and variances which are 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 his

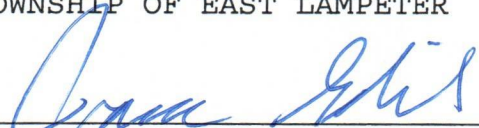
application and the evidence presented to the Board at the hearing held on March 25, 2021.

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 approvals granted herein shall expire if Applicant fails to obtain all approvals on or before January 24, 2023, and does not complete construction of the improvements within one (1) year of obtaining all approvals, but no later than January 24, 2024.

5. The foregoing Decision shall be binding upon the Applicant and its successor and assigns.

ZONING HEARING BOARD OF THE
TOWNSHIP OF EAST LAMPETER



James Glick, Chairman



J. Scott Enterline, Vice-Chairman



Jordan Good, Secretary

Dated and filed April 16, 2021, 2021, after hearing held on March 25, 2021.

The undersigned certifies that a copy of this Decision was served upon all parties on or prior to April 17, 2021, 2021.

Jana A Hitchens