

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :
: No. 2021-04
APPLICATION OF TH MINIT MARKETS LLC :

DECISION

I. FINDINGS OF FACT

1. Applicant is TH Minit Markets LLC, 165 Flanders Road, Westborough, MA 01581 ("Applicant").

2. The property which is the subject of the instant application is 5 Strasburg Pike, 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. 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 April 22, 2021.

6. Testimony at the hearing was stenographically recorded.

7. Applicant's counsel, Jack Zelinka, Esquire, appeared at the hearing and testified on behalf of Applicant.

8. Applicant has requested a variance from Section 22230 and Table 22230.1 of the Zoning Ordinance with regard to signage.

9. Applicant operates a convenience store, including the sale of gasoline, on the Property.

10. The Property has two freestanding signs associated with the convenience store/gasoline sales operation (situated at each abutting highway).

11. Applicant owns a separate adjacent parcel of real estate (identified as Lancaster County Tax Parcel 310-018981-0-0000 and hereinafter referred to as the "Car Wash Property") which is currently unimproved.

12. Applicant proposes to construct a car wash facility on the Car Wash Property.

13. Applicant desires to add an additional sign panel to each of the two freestanding signs on the Property. Each sign panel will contain 9.2 square feet of sign area and will display the name "Autospa", being the name of the car wash to be constructed on the Car Wash Property.

14. The narrative submitted with Applicant's application states as follows in support of its request for these off-premises signs:

Building an entirely new freestanding sign structure solely for the car wash would be an unnecessary use of financial resources and would cause unnecessary additional disturbance to the surrounding properties when the freestanding signs constructed on the Gas Station Property can easily accommodate the signs for the car wash.

II. CONCLUSIONS OF LAW

1. 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); MPC §910.2.

2. 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).

3. With conditions, Applicant has demonstrated evidence sufficient to warrant the granting of the requested variance for the installation of the off-premises signage on the Property.

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 TH Minit Markets LLC for a variance from Section 22230 and Table 22230.1 of the Zoning Ordinance to permit off-premises signage. The variance 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 Pennsylvania Municipalities Planning Code:

1. Applicant shall obtain all approvals and permits required by applicable laws and regulations.

2. Applicant shall at all times comply with and adhere to the evidence presented to the Board at the hearing held on April 22, 2021.

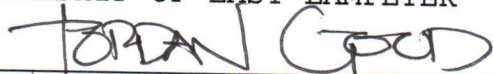
3. No freestanding signage shall be erected on the Car Wash Property.

4. 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.

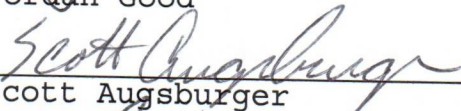
5. The approval granted by this Decision shall expire in accordance with the terms of Section 25060 of the Zoning Ordinance.

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

ZONING HEARING BOARD OF THE
TOWNSHIP OF EAST LAMPETER



Jordan Good



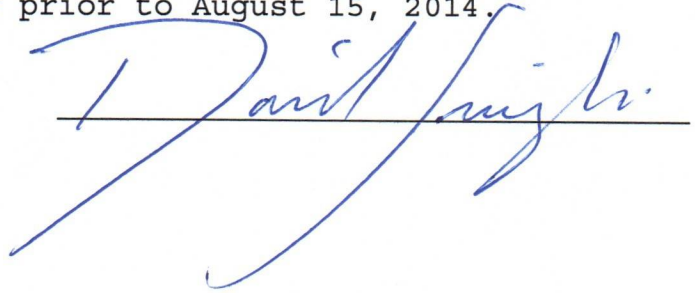
Scott Augsburger



Alex Reedy

Dated and filed May 13, 2021, after hearing held on April 22, 2021.

The undersigned certifies that a copy of this Decision was served upon all parties on or prior to August 15, 2014.

A handwritten signature in blue ink, appearing to read "David Smith", is written over a horizontal line. The signature is fluid and cursive.