

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :
: No. 2021-13
APPEAL OF DART CONTAINER :
CORPORATION OF PENNSYLVANIA :

DECISION

I. FINDINGS OF FACT

1. Appellant is Dart Container Corporation of Pennsylvania, 110 Pitney Road, Lancaster, Pennsylvania 17602 ("Appellant").

2. The property which is the subject of the instant application is 110 Pitney Road, East Lampeter Township, Lancaster County, Pennsylvania (the "Property").

3. The Property is located in the I-2 General Industrial District as shown on the Official Zoning Map of East Lampeter Township.

4. Notice of the hearing on the within appeal 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").

5. A public hearing was held before the Zoning Hearing Board of East Lampeter Township ("Board") on this appeal on July 22, 2021.

6. Testimony at the hearing was stenographically recorded.

7. David Sinopoli, Assistant Zoning Officer for East Lampeter Township, appeared at the hearing and testified on behalf of the Township.

8. Kevin Forrester, Appellant's manufacturing director, appeared at the hearing and testified on behalf of Appellant.

9. Appellant has appealed an Enforcement Notice, dated May 25, 2021, issued by the Assistant Zoning Officer.

10. The Enforcement Notice notified Appellant that it is in violation of Section 22230.D.30 of the Zoning Ordinance. See Township Exhibit No. 1.

11. Section 22230.D.30 of the Zoning Ordinance provides as follows: No sign shall be place[d] on an automobile, truck, or other vehicle if that vehicle is being used primarily for displaying such sign.

12. The term "sign" is defined in Section 1602.1 of the Zoning Ordinance as a device for visual communication that is used to bring the subject to the attention of the public.

13. Among other things, Appellant operates upon the Property a free foam recycling service open to the community.

14. The Assistant Zoning Officer testified that, on May 21, 2021, he observed Appellant's trailer parked along the frontage adjacent to Pitney Road.

15. The Assistant Zoning Officer further testified that he observed that the trailer was positioned in a way so that the traveling public (using Pitney Road) could see it. See Township Exhibit No. 2.

16. The trailer is "wrapped" with the name of Appellant's business name and advertising regarding job hiring, as more fully shown on the photograph presented at the hearing by the Assistant Zoning Officer. See Township Exhibit No. 2.

17. Appellant testified that:

(i) the trailer is parked by its styrofoam recycling center for convenience;

(ii) the trailer is used to transport foam between the Property and Appellant's family located in Leola, Pennsylvania;

(iii) the trailer is registered and licensed;

(iv) every few days the trailer is moved and it may be gone from the Property for a couple of days;

(v) the wrapping on the trailer was added approximately four months ago;

(vi) in an average month, the trailer is parked on the Property approximately one-half of the time;

(vii) Appellant could use a trailer without the wrap advertising job hiring but finds it beneficial to have the trailer wrapped for advertising purposes when the trailer is being used; and

(viii) the I-2 General Industrial District is a large scale industrial district and trailers are moved around on other properties.

II. CONCLUSIONS OF LAW

1. Section 22230D.30 of the Zoning Ordinance is the applicable provision of the Zoning Ordinance and provides as follows: No sign shall be placed on an automobile, truck, or other vehicle if that vehicle is being used primarily for displaying such sign.


2. The offered testimony and photographic evidence establishes that the trailer is being used primarily for displaying signage and advertising for job hiring. The Board rejects as not credible any and all testimony provided by Appellant regarding the primary use of the trailer. While Appellant's trailer is parked along Pitney Road with the wrap attached, the primary purpose of

the trailer is for the display of signage to alert the public that Appellant is hiring.

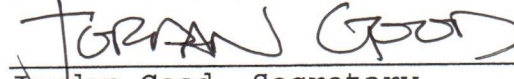
III. DECISION

Based upon the foregoing findings of fact and conclusions of law, the Zoning Hearing Board of the Township of East Lampeter hereby denies the appeal and upholds the Enforcement Notice.

ZONING HEARING BOARD OF THE
TOWNSHIP OF EAST LAMPETER



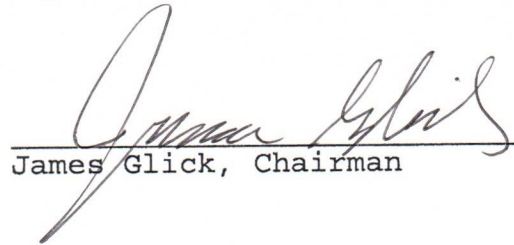
J. Scott Enterline, Vice-Chairman



Jordan Good, Secretary

DISSENT:

I dissent from the foregoing Decision. I would grant the appeal.



James Glick, Chairman

Dated and filed August 12, 2021, after hearing held on July 22, 2021.

I hereby certify that a copy of this Decision was served upon all parties on or prior to August 13, 2021.

