

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :  
: No. 2021-15  
APPLICATION OF CWP WEST CORP. :

DECISION

**I. FINDINGS OF FACT**

1. Applicant is CWP West Corp., 222 East 5<sup>th</sup> Street, Tucson, Arizona 85705 ("Applicant").

2. The property which is the subject of the instant application is 2175 Lincoln Highway East, East Lampeter Township, Lancaster County, Pennsylvania (the "Property").

3. The Property is located in the C-2 Commercial District as shown on the Official Zoning Map of East Lampeter Township. A portion of the Property is also located in the Floodplain Overlay District.

4. Applicant is the lessee of the Property.

5. The owner of the Property is Dimitrious Hronis, Jr.

6. 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").

7. A public hearing was held before the Zoning Hearing Board of East Lampeter Township ("Board") on this application on August 12, 2021.

8. Testimony at the hearing was stenographically recorded.

9. Applicant was represented at the hearing by Charles M. Suhr, Esquire.

10. Anthony Caponigro, of Kimley Horn, appeared at the hearing and testified on behalf of Applicant.

11. The Property contains approximately 1.84 acres.

12. The Property was previously used as and for a Perkins restaurant.

13. Applicant has requested: (i) a special exception pursuant to Section 9020.C.1 of the Zoning Ordinance which states that carwashes are permitted by special exception, subject to the provisions of Section 231500 of the Zoning Ordinance; (ii) a special exception pursuant to Section 21040.G of the Zoning Ordinance to permit parking lot/parking spaces within the Floodplain Overlay District; and (iii) a variance from the terms of Section 22160.C.2.b of the Zoning Ordinance regarding the maximum permitted size of parking spaces (parking spaces shall be no larger than 180 square feet).

14. Applicant proposes to construct upon the Property a single tunnel carwash, driveways, parking areas and vacuum stations, as more fully shown on the plan presented by Applicant and identified as Exhibit No. 7 (the "Plan").

15. There will be three stacking lanes, with a fourth lane which is used for emergency vehicles or patrons who change their mind and do not want to enter the carwash.

16. There will be three employees.

17. The carwash will operate seven days per week, approximately 7:00 am until 8:00 pm.

18. Approximately 8,000 square feet of the Property is located within the Floodplain Overlay District.

19. Five parking spaces will be located within the Floodplain Overlay District, as shown on the Plan.

20. There will be twenty vacuum parking spaces. Vacuum parking spaces will be 13 feet by 18 feet (234 square feet).

21. No persons appeared in opposition to the application.

## II. CONCLUSIONS OF LAW

1. An applicant for a special exception has the burden of persuasion 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. Applicant has presented evidence to demonstrate that it has met the conditions for the issuance of: (i) a special exception under Section 9020.C.1 and Section 23150 of the Zoning Ordinance to construct and operate a carwash upon the Property; and (ii) a special exception pursuant to Section 21040.G of the Zoning Ordinance to permit parking lot/parking spaces within the Floodplain Overlay District.

3. Applicant requires a variance from the terms of Section 22160.C.2.b of the Zoning Ordinance to permit vacuum parking areas

on the west side of the Property to be no larger than 13 feet by 18 feet (234 square feet).

4. 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.

5. 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).

6. Applicant has presented evidence sufficient to establish that unnecessary hardship will result if the variance is not granted, that the grant of the proposed variance will not be contrary to the public interest, and that the variance requested is the minimum that will afford relief and will represent the least modification of the ordinance.

7. Conditions must be attached to the grant of the special exceptions 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 CWP West Corp. for: (i) a special exception pursuant to Section 9020.C.1 of the Zoning Ordinance to construct and operate a carwash upon the Property; (ii) a special exception pursuant to Section 21040.G of the Zoning Ordinance to permit parking lot/parking spaces within the Floodplain Overlay District; and (iii) a variance from the terms of Section 22160.C.2.b of the Zoning Ordinance to permit vacuum parking areas on the west side of the Property to be no larger than 13 feet by 18 feet (234 square feet). The special exceptions and 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 MPC:

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

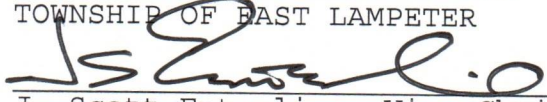
2. Applicant shall at all times comply with and adhere to the information and representations submitted with and contained in his application and the evidence presented to the Board at the hearing held on August 12, 2021.

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.

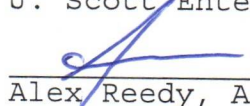
4. The approval granted by this Decision shall expire if Applicant does not obtain a zoning permit in accordance with the terms of Section 25070.F and Section 25060 of the Zoning Ordinance.

5. The foregoing Decision shall be binding upon the Applicants and its successors and assigns.

ZONING HEARING BOARD OF THE  
TOWNSHIP OF EAST LAMPETER



J. Scott Enterline, Vice-Chairman

  
Alex Reedy, Alternate

Dated and filed August 26, 2021, after hearing held on August 12, 2021.

The undersigned certifies that a copy of this Decision was served upon all parties on or prior to August 27, 2021.

  
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