

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :
: No. 2021-24
APPLICATION OF ANDREW B. JONES :

DECISION

I. FINDINGS OF FACT

1. Applicant is Andrew B. Jones, 2302 Old Philadelphia Pike, Lancaster, Pennsylvania 17602 ("Applicant").

2. The property which is the subject of the instant application is 2302 Old Philadelphia Pike, East Lampeter Township, Lancaster County, Pennsylvania (the "Property").

3. The Property is located in the Medium Density Residential (R-2) District as shown on the Official Zoning Map of East Lampeter Township.

4. Applicant is the 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 Zoning Ordinance of 2016 (the "Zoning Ordinance").

6. A public hearing was held before the Zoning Hearing Board of East Lampeter Township ("Board") on this application on October 28, 2021.

7. Testimony at the hearing was stenographically recorded.

8. Applicant appeared personally at the hearing.

9. Applicant has requested a special exception pursuant to Section 6020.C.13 of the Zoning Ordinance.

10. Section 6020.C.13 of the Zoning Ordinance states that tourist homes, as a principal or accessory use within a single family detached dwelling, are permitted in the Medium Density Residential (R-2) District by special exception, subject to the provisions set forth in Section 23110 of the Zoning Ordinance.

11. The Property contains approximately 0.36 acre and is improved with a single family detached dwelling.

12. The Property (and the dwelling located thereon) is served by public sanitary sewer and on-site well.

13. Applicant proposes to rent the dwelling as a tourist home.

14. Applicant testified that not more than ten guests would occupy the tourist home at any one time, as required by Section 23110.F.2 of the Zoning Ordinance.

15. Applicant testified that, with regard to the proposed tourist home, the length of stay for any guest will not exceed thirty (30) days, as required by Section 23110.F.5 of the Zoning Ordinance.

16. The dwelling contains complete sanitary sewage disposal services, washing and bathing facilities, and a kitchen to accommodate the guests.

17. Applicant will provide proof to the Township that all plumbing, heating, electrical, sanitary sewage disposal, water supply, storm sewer and similar facilities associated with the Property and the dwelling comply with applicable code requirements.

18. Applicant has developed and has provided to the Township an emergency management plan in the event of a catastrophic event resulting from flooding, fire, snow, ice, earthquake, utility outage, or other catastrophic event.

19. There is adequate parking located on the Property.

20. With conditions, the tourist home use complies with the requirements of Section 25070 of the Zoning Ordinance and, without limiting the foregoing, will not adversely affect the general character of the neighborhood or the general health, safety and welfare of residents or property owners within the general neighborhood.

II. CONCLUSIONS OF LAW

1. "The most important characteristic of a special exception is that it is a conditionally permitted use, legislatively allowed if the objective standards of the ordinance are met." *Abbey v. Zoning Hearing Board of the Borough of East Stroudsburg*, 126 Pa. Commonwealth Ct. 235, 559 A.2d 107, 109 (1989); *Bray v. Zoning Board of Adjustment of the City of Philadelphia*, 48 Pa. Commonwealth Ct. 523, 410 A.2d 909 (1980).

2. "A special exception is a misnomer in that it is really not an exception at all; it is a legislatively granted entitlement contained in a zoning ordinance." *McGinty v. Zoning Board of Adjustment of the City of Pittsburgh*, 717 A.2d 34 (Pa. Cmwlth. 1998) (en banc).

3. "[T]o 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).

4. An applicant for a special exception has the burden of persuasion as to the specific criteria and standards of the zoning ordinance. *Shamah v. Hellam Township Zoning Hearing Board*, 648 A.2d 1299 (Pa. Cmwlth. 1994); *Abbey v. Zoning Hearing Board of the*

Borough of East Stroudsburg, 126 Pa. Commonwealth Ct. 235, 559 A.2d 107 (1989).

5. Applicant has presented evidence to demonstrate that he has met the conditions for the issuance of a special exception under Section 6020.C.13, Section 23110, and Section 25070 of the Zoning Ordinance.

6. Conditions must be attached to the grant of the special exception 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 Andrew B. Jones for a special exception pursuant to Section 6020.C.13 and Section 23110 of the Zoning Ordinance to operate a tourist home on property known and numbered as 2302 Old Philadelphia Pike, Lancaster, Pennsylvania. The special exception 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 October 28, 2021.

3. Applicant shall provide proof acceptable to the Township that all plumbing, heating, electrical, sanitary sewage disposal, water supply, storm sewer and similar facilities associated with the Property and the dwelling comply with applicable code requirements.

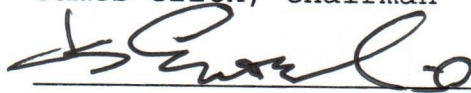
4. Any violation of the conditions contained in this Decision shall be considered a violation of the Zoning Ordinance and shall be subject to the penalties and remedies contained in the Pennsylvania Municipalities Planning Code.

5. The approval granted by this Decision shall expire in accordance with the terms of Section 25070 of the Zoning Ordinance.

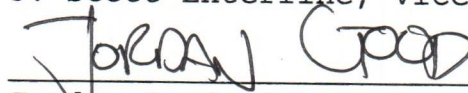
6. The foregoing Decision shall be binding upon the Applicant and his heirs and assigns.

ZONING HEARING BOARD OF THE
TOWNSHIP OF EAST LAMPETER

James Glick, Chairman



J. Scott Enterline, Vice-Chairman



Jordan Good, Secretary

Dated and filed November 18, 2021, after hearing held on October 28, 2021.

The undersigned certifies that a copy of this Decision was served upon all parties on or prior to November 19, 2021.