

BEFORE THE ZONING HEARING BOARD
TOWNSHIP OF EAST LAMPETER

IN RE: :
 : No. 2021-30
APPLICATION OF STEWART & TATE, :
INC. :

DECISION

I. FINDINGS OF FACT

1. Applicant is Stewart & Tate, Inc., 950 Smile Way, York, Pennsylvania, 17405 ("Applicant").

2. The property which is the subject of the instant application is located at 2060 Old Philadelphia Pike, East Lampeter Township, Lancaster County, Pennsylvania (the "Property").

3. Treehouse Private Brands is the owner of the Property.

4. The Property is located in the R-3 Residential District as shown on the Official Zoning Map of East Lampeter Township.

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 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 January 13, 2022.

7. Testimony at the hearing was stenographically recorded.

8. Joyce Gerhart, of RGS Associates, Inc., appeared at the hearing and testified on behalf of Applicant.

9. Greg Watson, of Treehouse Foods, also appeared at the hearing and testified on behalf of Applicant.

10. The Property is a lot which contains approximately 11 acres and which has been improved with an industrial facility for the production of food products.

11. The use of the Property for the production of food products is a pre-existing, nonconforming use.

12. The Property was the subject of previous zoning hearings and the Board takes administrative notice of its previous Decisions.

13. The Property is improved with a two-story concrete block building (the "Building").

14. When the use first became nonconforming, the Building contained approximately 78,666 square feet.

15. Applicant expanded the Building in 1975 to add an additional 30,498 square feet of area pursuant to a special exception granted by the Zoning Hearing Board.

16. Applicant expanded the Building in 1991 to add an additional 35,814 square feet of area pursuant to a special exception and variance granted by the Zoning Hearing Board in Case No. 91-12.

17. Applicant expanded the Building again in 2006 to add an additional 39,724 square feet of area pursuant to a special

exception and variance granted by the Zoning Hearing Board in Case No. 2006-34.

18. Applicant expanded the nonconforming use again in 2013 by adding a 450 square foot dock to the rear of the Building pursuant to a special exception and variance granted by the Zoning Hearing Board in Case No. 2013-04.

19. The previous expansions resulted in a combined expansion of 135.36% of the original nonconforming use.

20. Applicant has now requested: (I) a special exception pursuant to Section 24030.A.1 of the Zoning Ordinance; and (ii) a variance from the terms of Section 24030.A.2 of the Zoning Ordinance.

21. Section 24030.A.1 of the Zoning Ordinance permits expansion of lawful nonconforming uses by special exception.

22. Section 24030.A.2 of the Zoning Ordinance limits expansions of lawful nonconforming uses to fifty (50%) percent of the area of the nonconforming use (the maximum expansion to be based upon the size of the nonconforming use at the time it became nonconforming).

23. Applicant proposes to construct a 735 square foot building expansion to house wastewater treatment equipment, as more fully shown on the plan submitted by Applicant.

II. CONCLUSIONS OF LAW

1. An applicant for a special exception bears the burden of presenting evidence that the proposed use is one allowed by special exception and that the proposed use complies with all of the

objective requirements contained in the zoning ordinance. Abbey v. Zoning Hearing Board of East Stroudsburg Borough, 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. With the exception of the maximum expansion limitations set forth in Section 24030.A.2 of the Zoning Ordinance, Applicant has satisfied the requirements for a special exception.

3. Any expansion in excess of 50% shall require the grant of a variance. Jenkintown Towing Service v. Zoning Hearing Board of Upper Moreland Township, 67 Pa. Commonwealth Ct. 183, 446 A.2d 716 (1982); Township of Birmingham v. Chadds Ford Tavern, 132 Pa. Commonwealth Ct. 312, 572 A.2d 855 (1990).

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. 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.

6. Conditions must be attached to the grant of the special exception 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 for a special exception pursuant to Section 24030.A.1 of the Zoning Ordinance and a variance from Section 24030.A.2 of the Zoning Ordinance to permit the nonconforming business to be expanded by the construction of the wastewater treatment building containing 735 square feet. The special exception 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 Pennsylvania Municipalities Planning Code:

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 its application and the evidence presented to the Board.

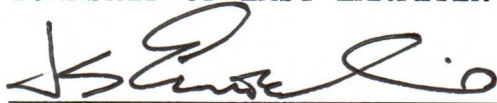
3. The approval granted by this Decision shall expire in accordance with the applicable terms of the Zoning Ordinance.

4. Any violation of the conditions contained in this Decision shall be considered a violation of the Zoning Ordinance and shall

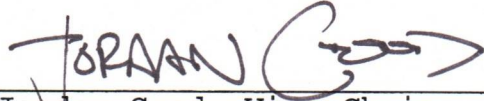
be subject to the penalties and remedies contained in the Pennsylvania Municipalities Planning Code.

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

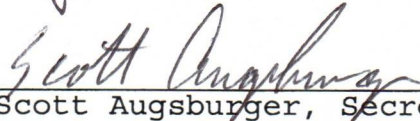
ZONING HEARING BOARD OF THE
TOWNSHIP OF EAST LAMPETER



J. Scott Enterline, Chairman



Jordan Good, Vice-Chairman



Scott Augsburg, Secretary

Dated and filed February 10, 2022, after hearing held on January 13, 2022.

The undersigned certifies that a copy of this Decision was served upon all parties on or prior to February 11, 2022.

