

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :  
: No. 2021-28  
APPLICATION OF GRANNY :  
N POPS PLACE, LLC :

DECISION

I. FINDINGS OF FACT

1. Applicant is Granny n Pops Place, LLC, 5919 Windmill Road, Gap, Pennsylvania 17527 (hereinafter "Applicant").
2. The property which is the subject of the instant application is 2939 Lincoln Highway East, East Lampeter Township, Lancaster County, Pennsylvania (the "Property").
3. Applicant is the owner of the Property.
4. The Property is located in the Village Commercial (VC) 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 ("MPC") and The East Lampeter Zoning Ordinance of 2016 (the "Zoning Ordinance").

6. On or about October 28, 2021, Applicant filed a zoning application with the Zoning Hearing Board of East Lampeter Township ("Board").

7. Applicant provided written notices to the Board waiving applicable time limits for the holding of hearings in this matter, and a public hearing was held before the Board on this application on March 24, 2022.

8. Testimony at the hearing was stenographically recorded.

9. Applicant was represented at the hearing by Lee A. Stivale, Esquire.

10. Kevin Engel, PE, of Engel Architects and Engineers, LLC, and John R. Caruolo, PE, of Caruolo Associates, Inc., appeared at the hearing and testified on behalf of Applicant.

11. Darren Phillips, the owner of Granny n Pops Place, LLC, also appeared and testified at the hearing.

12. East Lampeter Township participated as a party in this proceeding and was represented by Melvin E. Newcomer, Esquire.

13. Applicant has requested:

(A) a special exception pursuant to Section 19020.C.6 of the Zoning Ordinance;

(B) a variance from the terms of Section 22130.C.1.d of the Zoning Ordinance;

(C) a variance from the terms of Section 19030.B.1.d of the Zoning Ordinance;

(D) a variance from the terms of Section 22130.C.3.c of the Zoning Ordinance; and

(E) a variance from the terms of Section 23490.D.5 of the Zoning Ordinance.

14. Section 19020.C.6 of the Zoning Ordinance states that multi-family dwellings are permitted within the Village Commercial (VC) District subject to the provisions of Section 23490 of the Zoning Ordinance.

15. Section 22130.C.1.d of the Zoning Ordinance states that only single family detached dwellings are permitted on a flag lot.

16. Section 19030.B.1.d of the Zoning Ordinance states that a lot containing a multi-family dwelling must have a minimum lot width of 100 feet at the street right of way and front yard setback line.

17. Section 22130.C.3.c of the Zoning Ordinance states that the maximum length of the flag lot pole shall be 200 feet in the Village Commercial (VC) District.

18. Section 23490.D.5 of the Zoning Ordinance states that multi-family dwellings shall be served by public water supply facilities.

19. The Property contains approximately 1.34 acres and is a flag lot.

20. The pole of the flag lot is 55 feet wide at the street right of way.

21. The pole of the flag lot is 208 feet in length.

22. The Property widens to 150 feet in width at the flag portion of the flag lot.

23. The Property is improved with; (i) a single family detached dwelling; (ii) a garage; and (iii) a building described as a pool house.

24. The Property is being used as a boarding house, which the Board has previously determined is in violation of the Zoning Ordinance.

25. Applicant proposes to demolish the single family detached dwelling and garage and construct a multi-family dwelling.

26. The multi-family dwelling will be a three (3) story building and will contain a total of twelve (12) units [four (4) units per floor], as more fully shown on the plans and materials (collectively the "Plans") submitted by Applicant.

27. Each floor of the multi-family dwelling contains 5,900 square feet of floor area.

28. Applicant also proposes to use the "Pool House" as a one (1) unit manager's quarters (as an accessory use to the multi-family dwelling).

29. Applicant will provide parking spaces for twenty-one (21) vehicles on the Property, as more fully shown on the Plans.

30. Total lot coverage will be 42% (58% grass or other landscaping).

31. Applicant will install a fifteen (15) foot wide perimeter buffer, as shown on the Plans.

32. Public water is not available to serve the Property and Applicant will utilize an on-lot well.

33. Public sanitary sewer is available and Applicant will utilize the public sanitary sewer system to serve the Property.

34. Kevin Engel testified that the multi-family dwelling will be compatible with surrounding land uses.

35. John R. Caruolo prepared and submitted a traffic study regarding Applicant's proposal. Mr. Caruolo concluded that the new traffic to be generated by the multi-family dwelling will neither be significant nor noticeable, and there would be no adverse impact on existing local traffic in the vicinity of the Property. In addition, Mr. Caruolo concluded that safe sight distance is available at the Property's site access driveway and that traffic

flow into and out of the Property will not adversely affect traffic on Lincoln Highway East.

36. Applicant agreed at the hearing that it would agree to the following conditions of approval:

(A) Applicant shall be required to obtain all other necessary governmental approvals and permits for the intended use for the property and shall comply with applicable governmental rules, regulations, statutes and ordinances affecting the property and its intended use.

(B) Applicant shall remove all occupants of the existing units on the subject property within 45 days of the date of the written decision granting this application. For purposes of this Condition, Applicant shall be required to provide a written Notice to Quit to each occupant requiring that occupant to vacate within the 45-day period. If any occupant fails to voluntarily vacate within the 45-day period, Applicant shall be required to initiate evictions proceedings immediately at the office of the appropriate magisterial district judge and diligently pursue those eviction proceedings to conclusion.

(C) Pursuant to Section 25070 of the Zoning Ordinance, Applicant shall have one year from the date of approval within

which to secure permits and an additional year within which to complete construction of the project.

## II. CONCLUSIONS OF LAW

1. An applicant for a special exception has the burden of proof 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. With the exception of Sections 23490.D.5, 22130.C.1.d, 19030.B.1.d, and 22130.C.3.c, Applicant has complied with the requirements of Section 23490 and other applicable sections of the Zoning Ordinance.

3. Applicant requires variances from Sections 23490.D.5, 22130.C.1.d, 19030.B.1.d, and 22130.C.3.c of the Zoning Ordinance.

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. Common-

wealth 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. With conditions, but only with conditions, Applicant has presented evidence sufficient to establish that unnecessary hardship will result if the variances are not granted, that the grant of the proposed variances will not be contrary to the public interest, and that the variances requested are the minimum that will afford relief and will represent the least modification of the ordinance.

7. Conditions must be attached to a grant of the special exception and variances in this case to preserve and protect 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 Granny n Pops Place, LLC, for: a special exception pursuant to Section 19020.C.6 of the Zoning



Ordinance; a variance from the terms of Section 22130.C.1.d of the Zoning Ordinance; a variance from the terms of Section 19030.B.1.d of the Zoning Ordinance; a variance from the terms of Section 22130.C.3.c of the Zoning Ordinance; and a variance from the terms of Section 23490.D.5 of the Zoning Ordinance. The special exception and variances 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 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 at the hearing held on March 24, 2022.

2. Applicant shall be required to obtain all other necessary governmental approvals and permits for the intended use for the property and shall comply with applicable governmental rules, regulations, statutes and ordinances affecting the property and its intended use.

3. Applicant shall remove all occupants of the existing units on the subject property within 45 days of the date of the written decision granting this application. For purposes of this Condition, Applicant shall be required to provide a written Notice to Quit to each occupant requiring that occupant to vacate within the 45-day period. If any occupant fails to voluntarily vacate

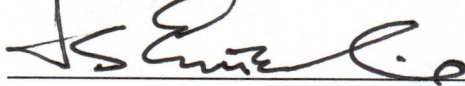
within the 45-day period, Applicant shall be required to initiate eviction proceedings immediately at the office of the appropriate magisterial district judge and diligently pursue those eviction proceedings to conclusion.

4. Pursuant to Section 25070 of the Zoning Ordinance, Applicant shall have one year from the date of approval within which to secure permits and an additional year within which to complete construction of the project.

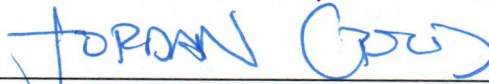
5. Any violation of the conditions contained in this Decision shall be considered a violation of the Zoning Ordinance and shall be subject to the penalties and remedies contained in the Pennsylvania Municipalities Planning Code.

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

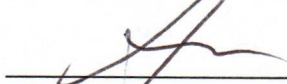
ZONING HEARING BOARD OF THE  
TOWNSHIP OF EAST LAMPETER



J. Scott Enterline, Chairman



Jordan Good, Vice-Chairman



Alex Reedy, Alternate

Dated and filed April 28, 2022, after hearing held on March 24, 2022.

The undersigned certifies that a copy of this Decision was served upon all parties on or prior to April 29, 2022.

A handwritten signature in black ink, consisting of stylized initials, positioned above a horizontal line.