

**BEFORE THE ZONING HEARING BOARD**

**TOWNSHIP OF EAST LAMPETER**

IN RE: :  
 : No. 2022-09  
APPLICATION OF ANIL JIVANI AND :  
JYOTSNA JIVANI :

**DECISION**

**I. FINDINGS OF FACT**

1. Applicants are Anil Jivani and Jyotsna Jivani, 103 Nevermore Circle, North Wales, Pennsylvania 19454 (hereinafter "Applicants").

2. The property which is the subject of the instant application is 2622 Lincoln Highway East, East Lampeter Township, Lancaster County, Pennsylvania (the "Property").

3. Applicants are the owners of the Property.

4. The Property is located in the AG-Agricultural 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. A public hearing was held before the Zoning Hearing Board of East Lampeter Township ("Board") on this application on October 13, 2022 (the hearing was originally scheduled for July 28, 2022, but was first continued to July 11, 2013, then to September 8, 2022, and finally to October 13, 2022).

7. Testimony at the hearing was stenographically recorded.

8. Applicants were represented at the hearing by Sheila O'Rourke, Esquire.

9. Anil Jivani appeared at the hearing and testified on behalf of Applicants.

10. East Lampeter Township was represented at the hearing by Susan Peipher, Esquire.

11. Applicants initially requested: (i) a special exception pursuant to Section 3020.C.12; and (ii) variances from the terms of Section 2020 and Section 23110.F.1 of the Zoning Ordinance.

12. Section 3020.C.12 of the Zoning Ordinance states that a tourist home is permitted by special exception within the AG-Agricultural District, subject to the requirements of Section 23110 of the Zoning Ordinance.

13. Section 2020 of the Zoning Ordinance defines the term "tourist home" which requires that a tourist home be within a single family detached dwelling.

14. Section 23110 of the Zoning Ordinance sets forth the specific requirements for a tourist home.

15. Section 23110.F.1 of the Zoning Ordinance states that a tourist home must be contained within a single family detached dwelling.

16. At the hearing, Applicants withdrew their application for variances from the terms of Section 2020 and Section 23110.F.1 of the Zoning Ordinance.

17. The Property was the subject of a previous zoning hearing and the Board takes administrative notice of its Decision in Case No. 2017-16. In Case No. 2017-16, the Board found and concluded, among other things, that:

(i) In violation of the use and occupancy permit and without obtaining Township approval, the basement of the subject structure was converted into two apartments.

(ii) Without obtaining Township approval, the attic of the subject structure was converted to an additional living unit/apartment.

(iii) There are five (5) dwelling units within the structure (one in the attic, two on the main floor and two in the basement).

(v) The use of the Property for a multi-family dwelling was an illegal use.

(vi) Applicants were not entitled to a use variance to use the Property as a multi-family dwelling.

18. Applicants appealed the Decision in Case No. 2017-16 to the Lancaster County Court of Common Pleas. The appeal is still pending.

19. Applicants now propose to convert the structure back into a single family detached dwelling and operate a non-owner occupied tourist home containing six (6) suites, as more fully shown on the plans submitted by Applicants.

20. The dwelling contains a lower level (below grade), a first floor and a second floor.

21. Applicants will convert the dwelling to a single family detached dwelling in accordance with the floor plans submitted by Applicants.

22. A central kitchen accessible by occupants of all suites will be located on the first floor of the dwelling.

23. There will be no stoves or ovens located within pantry areas.

24. The Property is served by public sanitary sewer and an on-lot well.

25. Complete sanitary sewage disposal services, washing and bathing facilities will be provided.

26. Applicants will provide accommodations to a maximum of 10 overnight guests on a daily basis for a period of time not exceeding 30 consecutive days.

27. Applicants will designate suite 2 and suite 3 as suites which are limited to occupancy by one person each.

28. Applicants have prepared and submitted an emergency management plan. See Applicants' Exhibit No. A-5.

29. Applicants testified that the proposed use will comply with all building code requirements.

30. Applicants will utilize an on-line reservation system (an on-line agency will perform booking operations).

31. Check-in time will be approximately 3:00 p.m. and check-out time will be approximately 11:00 a.m.

32. Attendants at the convenience store being operated on the Property will be available to assist guests of the tourist home.

33. Applicants will provide or cause to be provided property maintenance services.

34. A total of 6 parking spaces will be provided for the tourist home use.

35. The parking spaces are located to the rear of the tourist home.

36. Two of the parking spaces are located under a carport. However, the entrance is partially blocked with a fence which makes entrance and exit to the parking spaces difficult. Applicants will remove the fence.

37. The area surrounding the Property is a mix of commercial, residential and agricultural uses.

38. There will be no exterior changes to the dwelling and no signage is proposed for the tourist home.

## **II. CONCLUSIONS OF LAW**

1. "[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).

2. With conditions, Applicants have presented evidence to demonstrate that they have met the conditions for the issuance of a special exception under Section 3020.C.12 and Section 23110 of the Zoning Ordinance.

## **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 Anil Jivani and Jyotsna Jivani for a special exception pursuant to Section 3020.C.12 of the Zoning Ordinance to utilize the subject structure as a tourist home. The approval 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. Applicants shall obtain all approvals and permits required by applicable federal, state and Township laws and regulations, including, but not limited to, building code approvals.

2. Applicants shall at all times comply with and adhere to the information and representations submitted with and contained in their application and the evidence presented to the Board at the hearing held on October 13, 2022.

3. Applicants shall convert the structure back to a single family detached dwelling.

4. Applicants shall provide documentation to the Township that all plumbing, heating, electrical, sanitary sewage disposal, water supply, storm sewer and similar facilities comply with code requirements, including, but not limited to, the building code.

5. Suites 2 and 3 shall each be limited to one person occupancy and there shall be no more than 10 overnight guests on a daily basis for a period of time not exceeding 30 consecutive days.

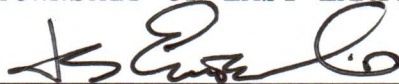
6. Applicants shall remove the existing fence which impedes access to the parking spaces located under the carport.

7. 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.

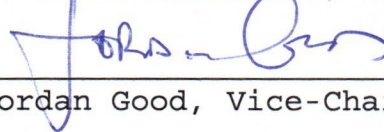
8. The approval granted by this Decision shall expire in accordance with the terms of Section 25070 of the Zoning Ordinance.

9. The foregoing Decision shall be binding upon the Applicants and their heirs and assigns.

ZONING HEARING BOARD OF THE  
TOWNSHIP OF EAST LAMPETER



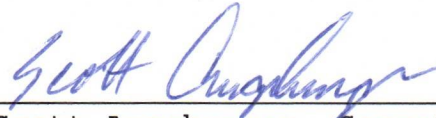
J. Scott Enterline, Chairman



Jordan Good, Vice-Chairman

DISSENT:

I hereby dissent from the foregoing Decision. I would deny the application for a special exception to operate a tourist home on the Property.

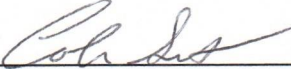


Scott Augsburg, Secretary



Dated and filed November 10, 2022, after hearing held on October 13, 2022.

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

  
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