

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :
: No. 2023-09
APPLICATION OF DUTCH MARKET :
PLACE, LLC :

DECISION

I. FINDINGS OF FACT

1. Applicant is Dutch Market Place, LLC, 60 North Ronks Road, Ronks, Pennsylvania 17572 ("Applicant").

2. The property which is the subject of the instant application is located at 60 North Ronks Road, 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. A public hearing was held before the Zoning Hearing Board of East Lampeter Township ("Board") on this application on October 26, 2023.

7. Testimony at the hearing was stenographically recorded.

8. Joseph Wachter appeared at the hearing and testified on behalf of Applicant.

9. The Property was the subject of a previous zoning hearing and the Board takes administrative notice of its Decision in Case No. 2022-01.

10. In Case No. 2022-01, the Board granted Applicant's request for A special exception pursuant to Section 19020.C.6 of the Zoning Ordinance, and a variance from Section 23490.D.5 of the Zoning Ordinance, subject to conditions.

11. Applicant did not undertake the project approved by the Board in Case No. 2022-01 and the approvals granted therein have expired.

12. Applicant has again requested:

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

(ii) A variance from Section 23490.D.5 of the Zoning Ordinance.

13. Section 19020.C.6 of the Zoning Ordinance states that multi-family dwellings are permitted by special exception, subject to the terms of Section 23490 of the Zoning Ordinance.

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

15. The Property contains approximately 7.760 acres and is currently improved with a multi-use building (primarily commercial uses).

16. The second floor of the multi-use building contains three apartments.

17. Applicant desires to renovate the second floor of the multi-use building such that there will be four apartments, each containing one bedroom.

18. There will be no change to the footprint of the multi-use building.

19. There is no public water service available to serve the Property.

20. The on-lot water system is adequate for Applicant's proposed use.

21. No persons appeared in opposition to the application.

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 the requirements of Section 23490.D.5 of the Zoning Ordinance regarding public water supply, Applicant has presented sufficient testimony to establish compliance with the requirements of Section 19020.C.6 and Section 23490 of the Zoning Ordinance.

3. Applicant requires a variance from the terms of Section 23490.D.5 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. Commonwealth Ct. 526, 543 A.2d 1282 (1988); MPC §910.2.

5. The existing structures and uses warrant the granting of variance requested.

6. The unnecessary hardship has not been created by the Applicant.

7. 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.

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 Dutch Market Place, LLC, for:

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

(ii) A variance from Section 23490.D.5 of the Zoning Ordinance.

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 laws and regulations.

2. Applicant shall at all times comply with and adhere to the evidence presented to the Board at the hearing held on March 10, 2022.

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.

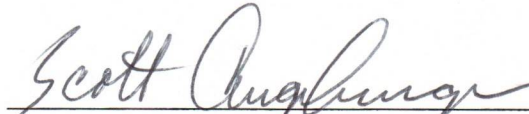
4. The approval granted by this Decision shall expire in accordance with the terms of Section 25060 and Section 25070 of the Zoning Ordinance.

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



Scott Augsburg, Secretary

Alex Reedy, Alternate

Dated and filed November 9, 2023, after hearing held on October 26, 2023.

The undersigned certifies that a copy of this Decision was served upon all parties on or prior to November 10, 2023.

