

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :
: No. 2025-02
APPLICATION OF EASTBROOK WELLSPRING :
CARE AND WELLSPRING CARE, INC. :

DECISION

I. FINDINGS OF FACT

1. Applicants are Eastbrook Wellspring Care and Wellspring Care, Inc., 150 Eastbrook Road, Smoketown, Pennsylvania 17576 ("Applicants").

2. The property which is the subject of the instant application is 150 Eastbrook Road, East Lampeter Township, Lancaster County, Pennsylvania (the "Property").

3. Wellspring Care, Inc., is the owner of the Property and Eastbrook Wellspring Care is a tenant on the property.

4. The Property is located within the Village General 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 March 27, 2025.

7. Testimony at the hearing was stenographically recorded.

8. Applicants were represented at the hearing by J. Dwight Yoder, Esquire.

9. Samuel A. Fisher and Paul McNeal appeared at the hearing on behalf of Applicants.

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

11. Tara Hitchens, East Lampeter Township Assistant Manager, and Ralph Hutchison, East Lampeter Township Manager, appeared at the hearing and testified on behalf of East Lampeter Township.

12. The following persons completed entry of appearance forms and were recognized as parties to the hearing:

Louis and Susan Bruno
158 Bonneville Drive
Ronks, PA 17572

Rebecca Douglas
159 Bonneville Drive
Ronks, PA 17572

Cindy Shuman
136 Eastbrook Road
Smoketown, PA 17576

Quinn Patrick
160 Bonneville Drive
Ronks, PA 17572

Colleen McCrabb
50 Eastbrook Road
Smoketown, PA 17576

Michael D. Bootie
3 Meadow Lane
Smoketown, PA 17576

13. Applicants initially requested:

(I) A special exception pursuant to Section 375-24030.C of the Zoning Ordinance (substitution of nonconforming use) to use an existing parking lot for the parking of trucks, trailers, campers, boats and vehicles, and to use an existing pole barn and two garages for inside storage; or, in the alternative,

(ii) A variance from the terms of Section 375-18020.A of the Zoning Ordinance (permitted uses in the Village General District) and a variance from Section 375-22160.K of the Zoning Ordinance (prohibited uses of parking facilities) to use an existing parking lot for the parking of trucks, trailers, campers, boats and vehicles, and to use an existing pole barn and two garages for inside storage.

14. Subsequent to the hearing, by letter dated April 24, 2025, Attorney Yoder notified the Board that Applicants withdrew their requests seeking approval to use the existing parking lot for the parking of trucks, trailers, campers, boats and vehicles.

Applicants, however are still seeking approval to use the existing pole barn and two garages for inside storage.

15. Applicants granted the Board extensions of time to render its decision, the most recent extension being until July 10, 2025.

16. The parties provided testimony regarding use an existing parking lot on the Property for the parking of trucks, trailers, campers, boats and vehicles. Because Applicants have withdrawn their request for this use, it is not necessary for the Board to set forth findings of fact related to such use. The Board will, however, set forth findings of fact related to Applicants' request to use the existing pole barn and two garages for inside storage.

17. The Property contains approximately 8.5 acres and is improved with a principal building, pole barn, two garages, multiple sheds, and a parking area.

18. The principal building is used as and for a wellness center.

19. The principal building was originally constructed by the Lapp family in approximately 1969 and was used as a restaurant known as Good n Plenty Restaurant.

20. In 1992, the Lapps constructed a pole barn in the rear of the Property. The Certificate of Use and Occupancy issued by the Township for the pole barn states that the use is approved for "restaurant storage".

21. In 1999, without obtaining Township approval, the Lapps began using the pole barn for storage of antique vehicles and materials unrelated to the restaurant use.

22. Use of the pole barn for the storage of antique vehicles and materials unrelated to the restaurant use was an illegal use.

23. Other storage sheds were used by the Lapps for accessory storage of restaurant equipment, a permitted accessory use.

24. Applicants propose to offer for lease the pole barn and two garages for storage unrelated to the wellness center.

II. CONCLUSIONS OF LAW

1. Applicants have requested a special exception pursuant to Section 375-24030.C of the Zoning Ordinance.

2. Section 375-24030.C of the Zoning Ordinance authorizes the substitution of a nonconforming use by special exception if the Board finds that the proposed nonconforming use is not more detrimental to the District than the existing nonconforming use of the property and that the proposed nonconforming use complies with, certain specific requirements.

3. The term "nonconforming use" is defined in Section 375-2020 of the Zoning Ordinance as follows:

A use, whether of land or of structure, which does not comply with the applicable use provisions in this chapter or with a specific amendment heretofore or hereafter enacted, where such use was lawfully in existence prior to enactment of this chapter . . . (emphasis supplied).

4. "In order to establish a prior nonconforming use the landowner is required to provide objective evidence that the land was devoted to such use at the time the ordinance was enacted." Heyman v. Zoning Hearing Board of Abington Township, 144 Pa. Commonwealth Ct. 167, 601 A.2d 414 (1991).

5. "The burden of proving the extent or existence of a nonconforming use rests on the property owner who would claim the benefit of the rights accorded property with that status." Heyman v. Zoning Hearing Board of Abington Township, 144 Pa. Commonwealth Ct. 167, 601 A.2d 414 (1991); Lantos v. Zoning Hearing Board of Haverford Township, 153 Pa. Commonwealth Ct. 591, 621 A.2d 1208 (1993).

6. The burden of proving the existence of a nonconforming use rests with the landowner. Collier Stone Company v. Zoning Hearing Board for the Township of Collier, 710 A.2d 123 (Pa. Cmwlth. 1998). The zoning hearing board is not required to pinpoint exactly when landowner began the use in a denial of nonconforming status.

7. Applicants have failed to establish that use of the pole building and two garages for storage of items unrelated to the principal use of the Property is a valid existing nonconforming use. Any such use by the Lapps, the previous owners of the Property, was an illegal use.

8. In the alternative, Applicants have requested a variance from Section 375-18020.A of the Zoning Ordinance.

9. Section 375-18020.A of the Zoning Ordinance sets forth those uses permitted within the Village General District.

10. Applicants require a variance from the terms of Section 375-18020.A of the Zoning Ordinance in order to use the existing pole barn and garages for inside storage.

11. 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.

12. Applicants have 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.

13. Conditions must be imposed to protect and preserve the surrounding neighborhood.

14. Applicants submitted and have agreed to the conditions set forth on Exhibit "A" attached hereto and made a part hereof.

III. DECISION

Based upon the foregoing findings of fact and conclusions of law, the Zoning Hearing Board of the Township of East Lampeter hereby: (I) denies the application for a special exception pursuant to Section 375-24030.C for substitution of a nonconforming use; and (ii) grants the application for a variance from the terms of Section 375-18020.A of the Zoning Ordinance in order permit use an existing pole barn and two garages for inside storage. 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.

2. Applicants shall fully comply with all of the conditions set forth on Exhibit "A" attached hereto and made a part hereof.

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 375-25060 of the Zoning Ordinance.

5. The foregoing Decision shall be binding upon the Applicants and their successors and assigns.

ZONING HEARING BOARD OF THE
TOWNSHIP OF EAST LAMPETER



J. Scott Enterline, Chairman



Jordan Good, Vice-Chairman



Edward R. Kennett, Member

Dated and filed July 10, 2025, after hearing held on March 27, 2025.

The undersigned certifies that a copy of this Decision was served upon all parties on or prior to July 11, 2025.



Proposed Conditions

1. The Applicant shall provide the Township with a letter from a third-party code inspector confirming that the commercial storage building has been inspected and does not require sprinklers or other alterations for the intended use.
2. The commercial storage building and two garages on the property may only be rented to third parties for storage purposes.
3. The commercial storage building may have no more than one tenant. In the event of a change in tenant, the Applicant is required to obtain Township review and approval of the use of the building.
4. Only one motor vehicle may be stored in each of the two garage bays in the garage building and there shall not be any storage of equipment, materials, inventory or operational items in the garages.
5. The garages may not be used for performing maintenance, service or repairs of any vehicles stored within the garages.
6. The commercial storage building may only be used for storage and other than the loading and unloading of items that are to be stored in the commercial storage building, no other activities shall be allowed in the outbuildings.
7. The commercial storage building may not be used for manufacturing, assembly or servicing of equipment.
8. The number of trips by the tenant of the commercial storage building for loading and unloading storage items shall average no more than five trips on a weekly basis.
9. No racking system may be installed within the commercial storage building.
10. Portable fire extinguishers shall be installed in the commercial storage building as required by section 903.2.0 of the 2018 International Building Code.
11. No outside storage of materials shall be permitted.
12. A rental agreement setting forth the terms and requirements of these conditions shall be executed by each tenant.
13. No flammable or combustible liquids shall be stored in the commercial storage building or in the garages.

EXHIBIT A