

# YORK TOWNSHIP

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York Township Zoning Hearing Board  
February 23, 2016  
6:00 p.m.

The February meeting of the York Township Zoning Hearing Board was called to order by Glenn Myers, Chairman.

Those in attendance were:

Glenn Myers, Chair  
William Descar, Secretary  
John Myers, Vice Chair  
David Fishel, Assistant Secretary  
Timothy Salvatore, Member  
James Barnes, Alternate Member  
Kathleen Cronin, Alternate Member  
Jeffrey Rehmeyer, Esquire, Solicitor  
Lisa Frye, Zoning Officer

MINUTES OF JANUARY 26, 2016

The Zoning Hearing Board minutes of the January 26, 2016, meeting were approved.

SPECIAL EXCEPTIONS/VARIANCES/APPEALS

Appl.2016-01: Lane Schiavoni Partnership requests a Variance of Section 265.405 Table 4.C to allow reduced lot width for single family semi-detached dwelling on property located at 2461-2463 South Queen Street in a Mixed Residential Commercial (MRC) District.

Present: Jeff Spangler

York Stenographic Services, Inc.  
34 North George St., York, PA 17401 - (717) 854-0077

York Township Zoning Hearing Board  
Tuesday, February 23, 2016  
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MOTION: On Application 2016-01, Lane Schiavoni Partnership requests a Variance of Section 254.405 Table 4.C to allow reduced lot width for single family semi-detached dwelling on property located at 2461-2463 South Queen Street in a Mixed Residential Commercial (MRC) District, that the application be approved.

MOTION MADE BY: Timothy Salvatore  
SECONDED BY: John Myers  
MOTION PASSED UNANIMOUSLY - James Barnes recused himself

Appl.2016-02: Troy A. and Tammy S. Leiphart request a Special Exception per Section 265-640 to establish a Home Occupation (day spa) on property located at 125 Winterstown Road in a Mixed Residential Commercial (MRC) District.

Present: Tammy Leiphart

MOTION: On Application 2016-02, Troy A. and Tammy S. Leiphart request a Special Exception per Section 265-640 to establish a Home Occupation (day spa) on property located at 125 Winterstown Road in a Mixed Residential Commercial (MRC) District, that the application be approved.

MOTION MADE BY: James Barnes  
SECONDED BY: John Myers  
MOTION PASSED UNANIMOUSLY - David Fishel recused himself

ATTEST:

  
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William Descar, Secretary

# DECISION OF THE YORK TOWNSHIP ZONING HEARING BOARD

**Application Number:** 2016-01  
**Hearing Date:** February 23, 2016  
**Applicant:** Lane Schiavoni Partnership  
**Property Owner:** Lane Schiavoni Partnership  
**Property:** 2461-2463 South Queen Street  
UPI: 54-000-0200-79-00000  
**Existing Zoning District:** Mixed Residential Commercial (MRC)

**Relief Requested-** Variance under the York Township Zoning Ordinance of 2012 (the "Ordinance") and pursuant to Section 265-405 Table 4.C thereof.

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## FINDINGS OF FACT

Based upon the evidence presented, and its evaluation of the credibility of the witnesses, the Board finds as follows:

1. The foregoing information and the Application, including its attachments, are incorporated by reference.
2. The Applicant was represented by Jeff Spangler. Mr. Spangler is an engineer with James R. Holley and Associates, Inc.
3. James Barnes, Zoning Hearing Board Alternate, abstained from deliberation or voting on the Application because of his affiliation with Mr. Spangler by virtue of Mr. Barnes' employment by James R. Holley and Associates, Inc.
4. The Applicant is seeking a Variance of lot width, to allow the Property to be subdivided into 2 lots (Lot 1, Lot 2, collectively the "Lots").
5. Following the proposed subdivision, Lot #1, on the northern half of the Property, would have a gross area of 5,500.46 square feet and a net lot area of 4,482.68 square feet.
6. Following the proposed subdivision, Lot #2, on the southern half of the Property, would have a gross area of 5,599.54 square feet and a net lot area of 4,578.99 square feet.
7. All requirements for the Lots can be met, except for the measurement of lot width, where the Applicant is short 0.48 feet on Lot 2.
8. Accordingly, a Variance is requested for the lot width for subdivided Lot 2.
9. Mr. Spangler provided information about the Property including the following:
  - a. The building on the Property consists of 2 semi-detached family dwellings.
  - b. The entire size of the Property is 9,061 square feet.
  - c. The width of the Property, at the front, and the rear, is 60 feet.
  - d. The Owner wants to subdivide the Property.
  - e. If the line to subdivide the Property is run through the middle of the Property and along the party wall of the dwellings, there is an issue with lot width.

- f. Specifically, the lot width for 2463 South Queen Street (Lot #2), at the building set-back line, is 29.52 feet.
  - g. The disparity in lot width of the proposed lots is a result of the building being skewed slightly on the Property.
  - h. The building in place has been there for well over 50 years, and accordingly, minor deviations in measurements are likely only noticeable because of the advances in technology.
10. There were no questions of the Applicant.
  11. There was nobody present in support or opposition of the Applicant.
  12. Lisa Frey, the Township Zoning Officer indicated there were no concerns from the Township perspective.
  13. Mr. Spangler provided information in support of a *de minimus* Variance, noting that the relief sought is very minor and is for a Property, the condition of which has been in place without issue for decades.
  14. In response to the criteria for the Variance, the Applicant provided the following:
    - a. The unnecessary hardship that exists is due to unique physical circumstances or conditions, because the building party wall is skewed, the building contains 2 semi-detached dwellings that have been in place for decades and such unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provision of this chapter in the neighborhood or district in which the Property is located.
    - b. Because of such physical circumstances or conditions, there is no possibility that the Property can be developed in strict conformity with the provisions of this Chapter and the authorization of a Variance is therefore necessary to enable the reasonable use of the Property, which reasonable use would be to subdivide the existing Property into 2 separate Lots as is necessary for adequate and safe use.
    - c. The unnecessary hardship is not being created by the Applicant, as the dwelling has been in place for decades.
    - d. The Variance, if authorized, will not alter the essential character of the neighborhood or district in which the Property is located nor substantially or permanently impair the appropriate use or development of adjacent property nor be detrimental to the public welfare because there is no change in the use of the Property nor construction of any new dwellings.
    - e. The Variance, if authorized, is the minimum Variance that will afford relief and will represent the least modification possible to the regulation at issue.

## CONCLUSIONS OF LAW


Based upon the Findings of Fact, and pursuant to applicable law, the Board concludes as follows:

1. The Applicant is seeking a minor deviation from the dimensional uses of the Zoning Ordinance, being 0.48 feet short of the required lot width of 30 feet, which is 1.6%.
2. Rigid compliance with the Zoning Ordinance is unnecessary to protect the public policy concerns inherent in the Ordinance, as this Property has 2 pre-existing semi-detached dwellings that have been in place for decades, without incident.
3. In addition to qualifying for a *de minimus* Variance, the Applicant has also met the criteria for a Variance.


Accordingly, Timothy Salvatore moved, and William Descar seconded, to grant the Variance of Section 265.405, Table 4.C. to allow reduced lot width for a single family semi-detached dwelling on the Property located at 2461-2463 South Queen Street in a Mixed Residential Commercial (MRC) Zone. The motion passed unanimously with Glenn Myers, John D. Myers, Timothy Salvatore, David N. Fishel and William Descar voting in favor of the Variance.

WITNESS/ATTEST

YORK TOWNSHIP  
ZONING HEARING BOARD

  
Secretary

By:   
Glenn Myers, Chair

  
Date

The Variance granted herein shall expire if the Applicant fails to, where required to do so, obtain a Permit, submit a Land Development Plan or commence work within six (6) months of the date of the authorization of the Variance, pursuant to Section 265-1009. E. of the Ordinance.

# DECISION OF THE YORK TOWNSHIP ZONING HEARING BOARD

**Application Number:** 2016-02  
**Hearing Date:** February 23, 2016  
**Applicant:** Troy A. and Tammy S. Leiphart  
**Property Owner:** Troy A. and Tammy S. Leiphart  
**Property:** 125 Winterstown Road  
UPI: 54-000-GK-0071-0000000  
**Existing Zoning District:** Mixed Residential Commercial Zone (MRC)

**Relief Requested-** Special Exception under the York Township Zoning Ordinance of 2012 (the "Ordinance") and pursuant to Section 265-640 thereof.

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## FINDINGS OF FACT

Based upon the evidence presented, and its evaluation of the credibility of the witnesses, the Board finds as follows:

1. The foregoing information and the Application, including its attachments, are incorporated by reference.
2. Both Applicants were present.
3. David N. Fishel, Zoning Hearing Board member recused himself, as his employer provides insurance to the Applicants.
4. The Applicants are seeking a Special Exception for a Home Occupation pursuant to Section 265-640 of the Ordinance.
5. Mrs. Leiphart testified to the following information:
  - a. The Home Occupation will be a Day Spa, within which nails and facial services will be provided (the "Home Occupation").
  - b. The Home Occupation will be offered in a portion of the house with a separate entrance.
  - c. The house is to be constructed and accommodations will be made for the Home Occupation during construction.
  - d. The area for the Day Spa will be 240 square feet.
  - e. Access to the Day Spa will be through a door by the garage.
  - f. There will only be 1 client at a time.
  - g. Each client will visit for 1 to 2 hours.
  - h. There will be no deliveries.
  - i. Mrs. Leiphart will be seeking the appropriate state licenses for the cosmetology services provided.
6. In response to the Specific Criteria for a Home Occupation in Section 265-640 of the Ordinance, Mrs. Leiphart offered the following:
  - a. She will be the person primarily responsible for Home Occupation, as a full-time resident of the premises. There will be no other employees.

- b. No more than 25% of the gross area of the dwelling unit will be used for the Home Occupation (240 square feet of 1,360 square feet).
  - c. No displays on the building façade, including the dwelling and all accessory buildings, shall indicate from the exterior that the dwelling is being utilized for purposes other than a dwelling.
  - d. The only external evidence of the Home Occupation may be 1 sign, not exceeding 1 square foot in area and subject to the sign regulations of the Ordinance.
  - e. Storage of materials used for the Home Occupation shall be wholly enclosed, shall not be visible from adjacent streets or properties and shall not be included as part of the 25% referenced above.
  - f. The Home Occupation shall be conducted entirely within the dwelling.
  - g. There shall be no deliveries, and accordingly, traffic circulation shall not be restricted.
  - h. Traffic generated by the Home Occupation shall not exceed volumes that would normally be expected in a residential neighborhood, as there will only be 1 car at the Property at a time.
  - i. The Home Occupation shall not produce dust, obnoxious odors, vibrations, lighting glare, fumes or smoke detectable on any adjacent streets or properties, nor shall it produce electrical interference.
  - j. The disposal of all materials, fluids and gases shall be in a manner which complies with all regulations of the York Township Water and Sewer Authority and all other applicable government codes.
  - k. No goods are expected to be sold on the Property and if any are sold in the future, they shall be incidental to the Day Spa services performed.
  - l. There shall be no utilization of highly explosive, highly flammable or hazardous materials. Acetone will be used in the operations, but not in any unusual amounts.
  - m. The hours of operation were provided in the Applicant's letter and they shall be Monday through Saturday between the hours of 9:00 am and 6:00 pm.
  - n. The Applicant shall request the permit for the Home Occupation required by the Ordinance, including all necessary information.
  - o. The Applicant understands the limitations of a Home Occupation permit.
  - p. The Applicant understands that the permit shall expire annually and be subject to the appropriate renewal process.
  - q. The Applicant understands that inspections are required per the Ordinance and York Township personnel shall have the right of access.
  - r. There shall be parking for use of the dwelling and the Home Occupation as required by the Ordinance, including 2 parking spaces for clients and an area to turn around before entering Winterstown Road.
7. In response to the General Standards for a Special Exception in Section 265-1009, the following was provided:
- a. The intended purpose of the proposed Use is consistent with the Township's development objectives as established in the Comprehensive Plan.
  - b. The proposed Use is in the best interest of properties in the general area, as well as the community at large, when viewing the proposed Use in relationship to and its potential effects upon surrounding land uses and existing environmental conditions regarding the pollution of air, land and water, noise, potential of hazards and congestion, illumination and glare, restrictions to natural light and circulation.

- c. The proposed Use is suitable for the Property in question and is designed, constructed and will be operated and maintained suitably for the anticipated activity and population served, numbers of participating population, frequency of use, adequacy of space and generation of traffic.
  - d. There are adequate and available utility services and facilities, such as sanitary and storm sewers, water, fire, police and other public facilities and the ability of the Township to supply such services.
  - e. The proposed Use has adequate ingress, egress, interior circulation of pedestrians and vehicles, off-street parking and accessibility to the existing Township street system.
  - f. The Use shall be in conformance with all applicable requirements of the Ordinance and, where applicable, in accordance with the Townships' Subdivision and Land Development Ordinance.
8. The Applicant obtained signatures from the occupants of 11 adjacent dwellings indicating their agreement with the construction and operation of a Day Spa Home Occupation.
  9. There were no questions from the audience.
  10. There was no testimony for or against the Applicant from the audience.
  11. Lisa Frye, Zoning Hearing Officer, did not indicate any concern on behalf of the part of the Township with the relief requested.

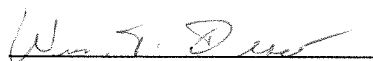
## CONCLUSIONS OF LAW

Based upon the Findings of Fact, and pursuant to applicable law, the Board concludes as follows:

1. The Applicant has met the Specific requirements for a Home Occupation Special Exception set forth in Section 265-640 of the Ordinance.
2. The Applicant has met the General standards for a Special Exception as set forth in Section 265-1009.C. of the Ordinance.


**Accordingly, Jim Barnes moved, and John D. Myers seconded, to grant the Special Exception pursuant to Section 265-640 to establish a Home Occupation (Day Spa), on the Property located at 125 Winterstown Road in a Mixed Residential Commercial (MRC) Zone. The motion passed unanimously with Glenn Myers, John D. Myers, Timothy Salvatore, William Descar and Jim Barnes voting in favor of the Special Exception.**

**WITNESS/ATTEST**

  
**Secretary**

**YORK TOWNSHIP  
 ZONING HEARING BOARD**

By:   
**Glenn Myers, Chair**

  
**Date**

The Special Exception granted herein shall expire if the Applicant fails to, where required to do so, obtain a Permit, submit a Land Development Plan or commence work within six (6) months of the date of the authorization of the Special Exception, pursuant to Section 265-1009. E. of the Ordinance.