

YORK TOWNSHIP

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York Township Zoning Hearing Board
April 25, 2017
6:00 p.m.

The April meeting of the York Township Zoning Hearing Board was called to order by John Myers, Chair.

Those in attendance were:

John Myers, Chair
Glenn Myers, Vice Chair
William Descar, Secretary
James Barnes, Asst. Secretary
Timothy Salvatore, Member
Anthony Pantano, Member / ALTERNATE
Jeffrey Rehmeyer, Esquire, Solicitor
Lisa Frye, Zoning Officer

MINUTES OF MARCH 28, 2017

A correction was made to the minutes to reflect that John Myers, Chair, called the meeting to order. The Zoning Hearing Board minutes of the March 28, 2017, meeting were approved as amended.

DECISIONS OF MARCH 28, 2017

The Zoning Hearing Board decisions of the March 28, 2017, meeting were approved.

SPECIAL EXCEPTIONS/VARIANCES/APPEALS

Appl.2017-04: Michael E. Barshinger requests a Variance to establish a billboard on property located along Interstate

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

York Township Zoning Hearing Board
 Tuesday, April 25, 2017
 Page 2

83, Springwood Road and Victoria Lane in a Commercial Office (CO) District.

Present: Gavin Markey, Esquire
 Eric Johnston
 Michael Barshinger

MOTION: On Application 2017-04, Michael E. Barshinger requests a Variance to establish a billboard on property located along Interstate 83, Springwood Road and Victoria Lane in a Commercial Office (CO) District, that the application be approved.

CONDITIONS: The Variance for the billboard is authorized while the land is used for current agricultural purposes. If the land were to be used for other commercial purposes in the future, the Variance will be terminated and there would be no right to continue with the billboard unless it would be allowed by right or other special relief such as a Special Exception under the zoning ordinance.

MOTION MADE BY: Timothy Salvatore
 SECONDED BY: James Barnes
 MOTION PASSED UNANIMOUSLY

Application 2017-05: Spiro and Nikki Aggelis request a Special Exception to establish a Home Occupation (gunsmithing business) on property located at 3050 Raylight Drive in a Residential Medium Density (RM) District.

Present: Spiro Aggelis
 Nikki Aggelis

MOTION: On Application 2017-05, Spiro and Nikki Aggelis request a Special Exception to establish a Home Occupation (gunsmithing business) on property located at 3050 Raylight Drive in a Residential Medium Density (RM) District, that the application be approved.

York Stenographic Services, Inc.

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

York Township Zoning Hearing Board
Tuesday, April 25, 2017
Page 3

MOTION MADE BY: William Descar
SECONDED BY: Glenn Myers
MOTION PASSED UNANIMOUSLY

ATTEST:



William Descar, Secretary

DECISION OF THE YORK TOWNSHIP ZONING HEARING BOARD

Application Number: 2017-05
Hearing Date: April 25, 2017
Applicants: Spiro & Nikki Aggelis
Property Owner: Spiro Aggelis
Property: 3050 Raylight Drive
UPI: 54-000-16-0175-00-00000
Existing Zoning District: Residential Medium (RM)

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

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 Applicants were representing themselves.
3. The Applicants are requesting a Special Exception under Section 265-640 for a Home Occupation of gunsmithing (the "Use").
4. Applicants provided information in support of their request as follows:
 - a. They are in the process of applying for a Federal Firearms License.
 - b. Zoning approval is necessary to achieve the License.
 - c. Mr. Aggelis has gunsmithing experience with other dealers.
 - d. Much of the work would be on hunting rifles, to include work on the wood and installation of scopes.
 - e. The Use will also include small arms repair.
 - f. There shall be no sale of ammunition.
 - g. There could be some purchases and sales, whereby the Applicants would take delivery of guns.
 - h. There would be no bluing of any metal on firearms.
 - i. Any of the blasting would be light or medium in nature.
 - j. There would be no unusual chemicals.
 - k. There would be a limited number of customers, with no more than one or two on a daily basis.
 - l. Customers could park in the driveway to the Property.
 - m. If a sign is erected, it would not exceed 1 square foot.
 - n. The hours would likely be 2:00 pm to 6:00 pm Monday through Friday, by appointment.
 - o. No weekend hours are anticipated.

- p. The area devoted to the Use would be approximately 250 to 350 square feet, which is less than 25% of the square footage of the home, which includes 1860 square feet of living area above grade.
5. The Applicants provided Exhibit 1, which was an updated Petition for Spiro and Nikki Aggelis Special Exception Zoning, with six names, addresses and signatures.
6. In response to the specific criteria for a Home Occupation in Section 265-640, the Applicants offered the following:
 - a. Applicants will be primarily responsible for the Home Occupation and shall be a full-time resident of the Property.
 - b. No more than twenty-five percent of the gross floor area of the dwelling unit will be used for the Home Occupation.
 - c. There will be no displays or changes in the building façade, including the building and all accessory buildings.
 - d. The sign will be of one square foot or less.
 - e. The storage of materials, products or machinery 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 twenty-five percent under Subsection B above.
 - f. The Home Occupation will not be conducted entirely within the dwelling.
 - g. No deliveries are expected and if there are any, they would not restrict traffic circulation.
 - h. Traffic generated by the Home Occupation shall not exceed volumes that would normally be expected in a residential neighborhood.
 - 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. The sale of goods shall be limited to good which are incidental to services performed on the Property.
 - l. The Home Occupation will not utilize explosive, highly flammable or hazardous materials.
 - m. The hours of operation finally proposed are 2:00 pm until 6:00 pm Monday through Friday, by appointment.
 - n. The Applicants shall request the permit for the Home Occupation required by the Ordinance, including all necessary information.
 - o. The Applicants understand the limitations of a Home Occupation permit.
 - p. The Applicants understand that the permit shall expire annually and be subject to the appropriate renewal process.
 - q. The Applicants understand that inspections are required per the Ordinance and York Township personnel shall have the right of access.
 - r. There is adequate parking available for the Home Occupation.
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 Township's Subdivision and Land Development Ordinance.
8. There were no questions from the audience.
 9. There was no testimony for or against the Applicants from the audience.
 10. On behalf of the Township, the Zoning Officer indicated as follows:
 - a. That the yearly application would be required to continue the Use.
 - b. The sign would need a permit.

CONCLUSIONS OF LAW

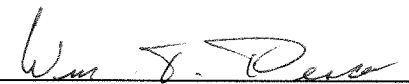
Based upon the Findings of Fact, and pursuant to applicable law, the Board concludes as follows:

1. The Applicants have met the specific criteria for the Home Occupation Use.
2. The Applicants have met the general criteria for a Special Exception.

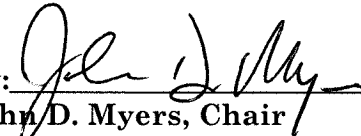
Accordingly, William Descar moved, and Glenn Myers seconded, to grant the Special Exception to establish a Home Occupation (gunsmithing business) on the Property located at 3050 Raylight Drive in a Residential Medium (RM) Zone. The motion passed unanimously with John D. Myers, Glenn Myers, William Descar, Jim Barnes, Timothy Salvatore voting in favor of the motion.

WITNESS/ATTEST

YORK TOWNSHIP
ZONING HEARING BOARD



William Descar, Secretary

By: 

John D. Myers, Chair

5/23/17
Date

The Special Exception granted herein shall expire if the Applicants fail 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.

DECISION OF THE YORK TOWNSHIP ZONING HEARING BOARD

Application Number: 2017-04
Hearing Date: April 25, 2017
Applicant: Michael E. Barshinger
Property Owner: Michael E. Barshinger
Property: Victoria Lane
UPI: 54-000-II-0263-C0-00000
Existing Zoning District: Commercial Office Zone (CO)

Relief Requested- Variance under the York Township Zoning Ordinance of 2012 (the "Ordinance") and pursuant to Section 265-709 thereof.

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. Eric Johnston of Johnston and Associates, Inc. and Gavin Markey, Esquire were present on behalf of the Applicant.
3. The Applicant is requesting a Variance of the Ordinance to allow for a Billboard to be located on the Property in the Commercial Office Zone (the "Use"). Billboards are only permitted by right in the Commercial Industrial (CI) and Industrial (I) Zones by Special Exception.
4. Attorney Markey called Mr. Johnston who provided testimony as follows:
 - a. He described the Property referring to Exhibit A to the Application, which was the Zoning Application Exhibit Site Plan.
 - b. The Property itself is long and narrow, reaching a point at its northernmost portion.
 - c. The Property is steep in the wooded area along the middle.
 - d. The Property does have wetlands in addition to the woodlands.
 - e. The Property has limited development potential.
 - f. There is a 70 foot right-of-way from Interstate 83 along the southeastern portion of the Property.
 - g. Victoria Lane, which provides access to the Property, is a gravel road.
 - h. Improvements to Victoria Lane would be cost prohibitive.
 - i. Infrastructure cost to develop the Property creates challenges.
 - j. Additional land would be necessary from adjoining properties in the vicinity of Springwood Road in order to widen Victoria Lane.
 - k. The Applicant has tried to sell the Property but has been unable to do so.

1. In Mr. Johnston's professional opinion as an engineer, there are hardships that impair development of the Property.
5. Attorney Markey submitted a photograph showing the proposed location of the Billboard, which was labeled as Applicant's Exhibit A-1.
6. The Billboard would not impair the public welfare.
7. The Applicant also asserted the following:
 - a. The Billboard would represent less signage on the Property than would be allowed by commercial development of it, if it were economically feasible.
 - b. The Billboard shall comply with all other regulations applicable to it.
8. The Applicant referred to Section 265-707 indicating compliance with the sections therein as follows:
 - a. The message on the electronic sign shall remain static for the required periods of time.
 - b. The display shall change from one complete message to the next complete message within one second.
 - c. Messages shall not visually dissolve or fade, in which any part of one electronic message/display appears simultaneously with any part of a second electronic message/display.
 - d. There shall not be any flashes, bursts of light, streaming, zooming or animated effects on electronic signs with multicolor displays. If an electronic sign with monochromatic display, it may have animated effects.
 - e. All electronic signs shall have ambient light monitors which automatically adjust the brightness level of the electronic sign based on ambient light conditions.
 - f. The electronic sign shall not be located within 300 feet of a residential use if the sign area is greater than 65 square feet.
 - g. The electronic sign may include community services messages, i.e., time and temperature, school closings, non-profit announcements, weather alerts, etc.
 - h. Except for billboards, an electronic sign shall not advertise for any off-site business.
9. On behalf of the Township, the Zoning Officer indicated the following:
 - a. There are no plans for improvement to Victoria Lane.
 - b. The Township has actually considered abandoning it.
 - c. The Property is leased to a farmer.
10. In response to questions, the Applicant indicated the following:
 - a. Because of setbacks, rights-of-way, steep slopes and wetlands, the buildable area on the Property is probably decreased by approximately 30% to 35%.
 - b. The Billboard would have two sides, thus being visible to motorists traveling both Northbound and Southbound on Interstate 83.
 - c. Gravity sewer is not available to the Property.
11. 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, including its narrowness as compared to width, steep slopes, wetlands, limited access and proximity to Interstate 83 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 and for adequate and safe use.

- c. The unnecessary hardship is not being created by the Applicant.
 - 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.
 - e. The Variance, if authorized, will represent the minimum Variance that will afford relief and will represent the least modification possible to the regulation at issue.
12. The Billboard was proposed as a means to supplement the current use of the Property.
 13. Based upon the proposed use of the Billboard to supplement, a Condition to any relief was determined, as follows: The Variance will be in effect so long as the current, agricultural use of the land is continued, but if commercial use is undertaken, then the Variance would terminate automatically and there would be no further right to the Billboard Use unless allowed by the then current Ordinance (by right or Special Exception) (the "Condition").
 14. The Applicant indicated the Condition would be acceptable.
 15. Applicant's counsel has argued that the Variance should be granted pursuant to *Hertzberg v. Zoning Board of Adjustment of the City of Pittsburgh*, 554 Pa. 249, 721 A.2d 43 (1998) as follows:
 - a. There would be substantial economic detriment to the owner to bring the Property into compliance.
 - b. The grant of the Variance would not be detrimental to the public welfare.

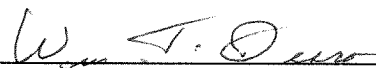
CONCLUSIONS OF LAW

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

1. Despite the potential application of *Hertzberg*, the Board finds that the Applicant has met the criteria for a Variance as set forth in Section 265-1010 of the Ordinance.
2. Relief can only be granted if the Condition is imposed.

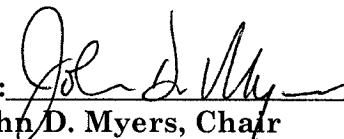
Accordingly, Timothy Salvatore moved, and Jim Barnes seconded, to grant the Variance, subject to the Condition, to establish a Billboard on the Property located along Interstate 83, Springwood Road and Victoria Lane in a Commercial Office (CO) Zone. The motion passed unanimously with John D. Myers, Glenn Myers, William Descar, Jim Barnes and Timothy Salvatore voting in favor of the Motion.

WITNESS/ATTEST



 William Descar, Secretary

**YORK TOWNSHIP
 ZONING HEARING BOARD**

By: 

 John D. Myers, Chair

5/23/17
 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.