

YORK TOWNSHIP

190 Oak Road, Dallastown, Pennsylvania 17313
Phone (717)741-3861 Fax (717)741-5009

York Township Zoning Hearing Board
Tuesday, September 22, 2009
6:00 p.m.

The September meeting of the York Township Zoning Hearing Board was called to order by Teri Hollway, Chair.

Those in attendance were:

Teri Hollway, Chair
William Yanavitch, Vice-Chair
John Wimbley, Member
Carl Dallmeyer, Member
Glen Myers, Alternate Member
Shirley Sterner, Alternate Member
Lisa Frye, Zoning Officer
Jeffrey Rehmeyer, II, Esq., Solicitor

MINUTES AND DECISIONS OF AUGUST 25, 2009

The Zoning Hearing Board minutes and decisions made at the August 25, 2009, meeting were approved.

Correspondence - 6 month extension request from Stacey R. MacNeal of Katherman, Heim & Perry, for Appl. 2007-34, MJ Anderson's Loving Care, Inc.

Present: Stacey MacNeal, Esq.
Marian Anderson

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

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Information on the request was presented and after discussion the request was approved, pending a written decision.

HEARINGS

Appl.2009-25: Kenneth Lee Eckard requests a Special Exception to establish a Home Occupation (law office) on property located at 180 Darlene Street in a Low Density-Residential (RL3) zone.

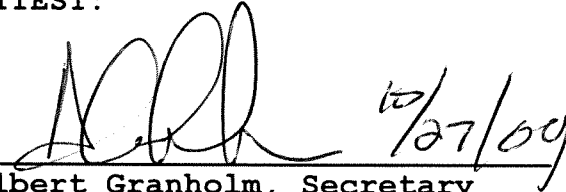
Present: Kenneth Eckard

Information on the application was presented and after discussion the application was approved, pending a written decision.

ADJOURNMENT

The meeting adjourned at 7:30 p.m.

ATTEST:


Albert Granholm, Secretary

DECISION OF THE YORK TOWNSHIP ZONING HEARING BOARD

Application Number: 2009-25
Hearing Date: September 22, 2009
Applicant: Kenneth Lee Eckard
Property Owner: Kenneth Lee Eckard
Property: 180 Darlene Street, York, PA 17403
UPI # 54-000-24-0105.00-00000
Existing Zoning District: RL3

Relief Requested- Special exception requested under the York Township Zoning Ordinance of 1996, as amended (the "Ordinance") and pursuant to Section 265-91.C 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 and enclosures, are incorporated by reference.
- 2) The Applicant, an attorney licensed to practice in the Commonwealth of Pennsylvania, represented himself.
- 3) The Applicant explained that he is seeking approval of a home occupation to use the basement of his home as an office for his law practice (the "Home Occupation").
- 4) In support of the Application for the Home Occupation, the Applicant submitted Exhibits, which were accepted by the Board, as follows:
 1. Tax Map
 2. Photograph of the Property, showing the front of the home.
 3. Additional photographs of the front of the home on the Property.
 4. Hand drawn diagram showing the dimensions of the basement, within which the Home Occupation will be conducted.
 5. Proposed hand drawn diagram of proposed sign.
 6. Petition, signed by seven of his neighbors, indicating that they have no objection to the Home Occupation (Heather and Mike Brandt, Cory Moffitt, Meg Myers, Juanita Mackley, Gene Foust, Anna Foust, and Richard Smith).
 7. A hand drawn map of the Property, showing the house and the names of adjoining property owners.
- 5) With regard to the proposed Home Occupation, the following was offered:
 - a. The Applicant has owned the Property for seven years.

- b. The Applicant is a graduate of the Dallastown Area School District, Pennsylvania State University, and University of Toledo.
 - c. The Applicant visited the owners of ten properties within 300 feet of his Property and who have frontage on Darlene Street, but he did not go over to Woodside or West Crestlyn, as those properties are separated by woodlands.
 - d. The Applicant's practice consists of business, personal injury, estate planning and administration, criminal, and family law.
 - e. The Applicant will continue to maintain an office presence in downtown York.
 - f. However, the Home Occupation would accommodate his secretary, who works part time on three days a week.
 - g. His Property has a large driveway, and three garages.
 - h. The driveway facilitates ample off-street parking.
 - i. The Applicant's clients do not necessarily prefer to meet with him in downtown York.
 - j. To facilitate the Home Occupation, the Applicant will remodel the basement of his home, in accordance with Exhibit 4.
 - k. When viewing his calendar recently, the Applicant had no more than 15 appointments per month.
 - l. The Applicant estimated that he would have no more than two or three cars at his Property on a daily basis.
 - m. The hours of operation of the Home Occupation would be 9 a.m. until 7:00 p.m., Monday through Friday, with occasional hours from 10 a.m. until 2 p.m. on Saturday.
 - n. He will only have certain clients come to his home pursuant to the Home Occupation.
- 6) With regard to the specific criteria for Home Occupation Section 265-91.C, the following was offered:
- a. The Applicant is the person primarily responsible for the Home Occupation. He is a full time resident on the Property.
 - b. No more than 25% of the gross floor area of the dwelling shall be used for the Home Occupation. The Home Occupation will utilize an office, entry way, secretarial space, and bathroom in the lower level of the dwelling.
 - c. While the Applicant intends to replace a lower level window with a door, to allow direct access to his law office, there shall be no change in the building façade which shall cause it to appear as anything other than a dwelling.
 - d. The only external evidence of the Home Occupation shall be one non-illuminated sign, in accordance with Exhibit 5.
 - e. Parking facilities shall be the driveway on the Property, and clients shall not park on Darlene Street.
 - f. Any storage of materials or equipment used for the Home Occupation shall be fully enclosed within the dwelling.
 - g. The Home Occupation shall be conducted entirely within the dwelling.
 - h. There should be no deliveries that restrict traffic circulation.
 - i. Traffic generated by the Home Occupation shall not exceed volumes that would normally be expected in a residential neighborhood.
 - j. The Home Occupation shall not produce noise, obnoxious odors, vibrations, lighting glare, fumes or smoke detectable to normal sensory perception on the adjacent lots or streets or electrical interference.
 - k. 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.
 - l. There shall be no sale of goods on the Property.

- m. The Home Occupation shall not utilize explosive, highly flammable or hazardous materials.
 - n. The hours of operation are as set forth above.
- 7) With regard to the general criteria for a special exception in Section 265-166, the Applicant testified as follows:
- a. The use is in harmony with the orderly and appropriate development of the zoning district, including the location with respect to existing streets and the nature and intensity of the Home Occupation proposed.
 - b. There are adequate water, sewage, storm drainage, and fire and police protection for the Property.
 - c. The use of adjacent land and buildings will not be discouraged and the value of adjacent land and buildings will not be impaired by the location, nature and height of the buildings, walls, and fences.
 - d. The use will not create traffic congestion or cause commercial or industrial traffic to use residential streets.
- 8) There were no questions of the Applicant.
- 9) There was no testimony in opposition to, or in favor of, the Special Exception.

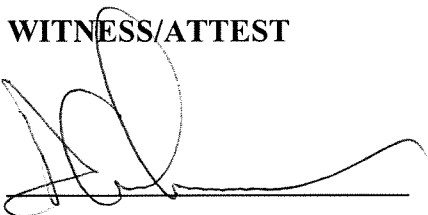
CONCLUSIONS OF LAW

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

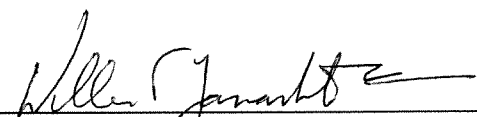
- 1) The Applicant has met the specific criteria for a Special Exception for a Home Occupation as set forth in Section 265-91.C of the Ordinance.
- 2) The Applicant had met the general standards for a Special Exception as set forth in Section 265-166.D of the Ordinance.
- 3) The Board finds no need to impose any conditions.

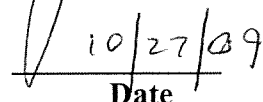
Accordingly, John Wimbley moved, and Carl Dallmeyer seconded, to grant the Special Exception for a law office Home Occupation, for the Property, and that no other portion of the Ordinance be waived or other relief granted. The motion passed with a vote of 5-0, with all members voting in favor.

WITNESS/ATTEST



**YORK TOWNSHIP
ZONING HEARING BOARD**

By: 


Date

The zoning relief granted herein is valid for a period of six (6) months from the date of its authorization (which authorization is deemed to be granted on the date that the Zoning Hearing Board rendered a decision at the hearing or in writing, whichever comes first) pursuant to Sections 265-145A. (3) and 265-146 of the Ordinance, unless the Applicant has proceeded to obtain a building permit or submit a land development plan.