

YORK TOWNSHIP

190 Oak Road, Dallastown, Pennsylvania 17313
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York Township Zoning Hearing Board
September 28, 2010
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
Shirley Sterner, Secretary
Glenn Myers, Assistant Secretary
David N. Fishel, Member
William Descar, Member
Susan Miller, Alternate Member
Lisa Frye, Zoning Officer
Jeffrey L. Rehmeier, II, Esq., Solicitor

MINUTES OF AUGUST 24, 2010

The Zoning Hearing Board minutes of the August 24, 2010, meeting were approved.

DECISIONS OF AUGUST 24, 2010

The Zoning Hearing Board decisions of the August 24, 2010, meeting were approved.

HEARINGS

Appl.2010-22: Daniel Walter, Jr. and Joanne Walter request a Special Exception to establish a Home Occupation (office

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

York Township Zoning Hearing Board
Tuesday, September 28, 2010
Page 2

for commercial swimming pool maintenance and training business) on property located at 118 Jonathan Way North in a Residential-High Density (RH9) zone.

Present: D. Michael Craley, Esq.
Daniel Walter, Jr.
Joanne Walter

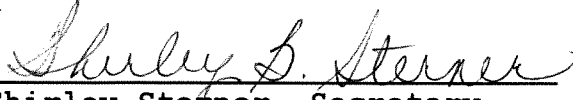
I move that Appl.2010-22, Daniel Walter, Jr. and Joanne Walter request a Special Exception to establish a Home Occupation (office for commercial swimming pool maintenance and training business) on property located at 118 Jonathan Way North in a Residential-High Density (RH9) zone, be approved with the following conditions that Attorney Rehmeier has stated.

MOTION MADE BY: Shirley Sterner
SECONDED BY: Glenn Myers
MOTION PASSED UNANIMOUSLY

ADJOURNMENT

The meeting adjourned at 7:35 p.m.

ATTEST:


Shirley D. Sterner
Shirley Sterner, Secretary

DECISION OF THE YORK TOWNSHIP ZONING HEARING BOARD

Application Number: 2010-22

Hearing Date(s): September 28, 2010

Applicant: Daniel & Joanne Walter

Property Owner: Same

Property: 118 Jonathan Way North, Red Lion, PA 17356
UPI: 54-000-45-0076.00-00000

Existing Zoning District: RH9

Relief Requested- Special Exception under the York Township Zoning Ordinance of 1996, as amended (the "Ordinance") and pursuant to Section 265-91 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 Applicant was present and represented by E. Michael Craley, Esquire.
3. Board Member Dave Fishel noted for the record that he does know the Applicant through the Dallastown Area High School marching band, but that he felt it would not impact his ability to participate on the hearing. Nobody objected or voiced any concern.
4. Attorney Craley indicated that the Applicant was seeking a Special Exception pursuant to Section 265-91 of the Ordinance for a home occupation, namely an office for a business that provides commercial swimming pool maintenance and related training (the "Home Occupation").
5. Attorney Craley presented Mr. Walter as a witness, who provided evidence and testimony in support of the Home Occupation as follows:
 - a. The Applicant has lived at the Property for approximately 11 years.
 - b. The business provides commercial swimming pool maintenance and training under the name Dan Dan the Pool Man and began in 2004 (the "Business").
 - c. For the Business, the Applicant provides services to customers at the site of their commercial pools.
 - d. Additionally, the Business involves approximately 10 to 12 residential customers.
 - e. Further, the Business does warranty work for American Home Shield.
 - f. Mr. Walter has been in the business of pool maintenance since 1996.
 - g. Mr. Walter has been a certified pool operator since 1998.

- h. Mr. Walter has certification from the Pennsylvania Department of Agriculture to handle and to add certain chemicals to commercial pools.
 - i. Additionally, he is authorized to train people and to teach about pool maintenance.
 - j. Mr. Walter has provided assistance to the YMCA, YWCA, and certain municipalities, school districts, and hotels.
 - k. The Business activities that are conducted at the Applicant's home, as part of the Home Occupation, include primarily paper work such as billing.
 - l. The focus of the Home Occupation has not been retail, although there had been some retail sales made on a limited basis.
 - m. The Applicant admitted that the Application was made to the Zoning Hearing Board following receipt of a letter from the Zoning Officer.
6. The Applicant and their counsel focused on the specific criteria for a Home Occupation pursuant to Section 265-91(c) of the Ordinance, providing the following:
- a. They are full time residents at the Property and responsible for the Business.
 - b. The area devoted to the Business in the home consists of two desks in the basement and storage in the garage.
 - c. According to their calculations, only 99 square feet is utilized in the basement, as shown on the drawing attached to the Application.
 - d. There are no outside displays with regard to the Home Occupation.
 - e. If a sign were to ever to be erected in support of the Home Occupation, it would not exceed 1 square foot in size, would not be illuminated, and would be subject to the sign regulations of the Ordinance.
 - f. The Applicant confirmed that the Business has two vehicles that park on the Property, and their employee often parks in the street although he could be directed to park on the Property too.
 - g. The Applicant testified that there will be no outdoor storage for the Home Occupation.
 - h. Any activities of the Home Occupation are conducted inside the dwelling, although the Applicant confirmed that he has his own pool and spa, which require occasional water testing outside the dwelling.
 - i. The Applicant confirmed that he has a related facility for the Business that is used for storage purposes in Red Lion, to which most deliveries are made while deliveries to the Property are primarily via UPS, Federal Express, or a van and there are only 1½ to 2 of those deliveries per month (the "Red Lion Warehouse").
 - j. The traffic generated by the Home Occupation does not exceed volumes that would normally be expected in a residential neighborhood, as it is typically the Applicant, their employee, and occasionally a customer.
 - k. The Home Occupation does not produce noise, obnoxious odors, vibrations, lighting glare, fumes or smoke detectable to normal sensory perception on any adjacent lots or streets or electrical interference.
 - l. 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.
 - m. The Home Occupation does not utilize explosive, highly flammable or hazardous materials
 - n. The hours of operation are typically from 7 or 8 a.m. until 7 or 8 p.m. during the summer time, with as many as 7 days a week (where Saturday is a half day and Sunday is only as needed) but considerably less hours in the late fall, winter, and early spring months.

7. Additional testimony and evidence were provided as follows:
 - a. There was presented to the Board a letter signed by certain neighbors, indicating that they did not oppose the Home Occupation, which was accepted as Exhibit 1.
 - b. Mr. Walter noted that he had fulfilled approximately 140 purchase orders so far this year, of which only 13 involved deliveries to the Property.
 - c. Mr. Walter confirmed that the Red Lion Warehouse is utilized for primary storage purposes.
 - d. He explained that the Business has two vehicles, a Hummer and Ranger truck.
 - e. Mr. Walter admitted that cylinders of chemicals are sometimes kept in the bed of the truck, even while stored on the Property.
 - f. He explained that those chemicals are in containers that cannot be opened with a special tool and/or are child proof.
 - g. Mr. Walter also confirmed that the chemicals in the truck are not explosive or flammable.
 - h. He also indicated that there have been no issues of anybody tampering with the truck in the past.
 - i. Mr. Walter confirmed that the pool at his residence is not used for training purposes.
 - j. The Applicant explained that the storage in a garage on the Property includes small parts and fittings utilized primarily for filter and plumbing repair, and that the items are not those that would be utilized for construction, fencing, or lining or covering a pool.
 - k. Mr. Walter admitted that sometimes, when he did not have the Red Lion Warehouse available, there has been limited storage outside the dwelling of the Property.
8. Mr. Walter and his attorney confirmed that it would be an acceptable condition to the grant of a Special Exception that the employee not be permitted to park on the street, but rather be required to park on the Applicant's Property.
9. With regard to the chemicals utilized for the Business, the Applicant provided information as follows:
 - a. They are shipped to the Red Lion Warehouse.
 - b. To the extent that any chemicals are not utilized during the day, they sometimes remain on the truck at the end of the work day and overnight if they are not left at the Red Lion warehouse.
 - c. The Applicant explained that those containers are usually carboys, which are 5 gallon containers.
10. In response to questions, the Applicant provided the following answers:
 - a. While chemicals had sometimes been stored on the driveway on the Property, that will not happen anymore. The Applicant confirmed that it would be an acceptable condition to have the primary storage of chemicals at the Red Lion warehouse facility.
 - b. Trash storage and disposal will be monitored.
 - c. There is only one employee of the Business other than the Applicant.
11. David Zurn, who resides at 4 Steeple Avenue, indicated that he had not objection to the Special Exception as long as the health and safety issues were addressed.
12. Mr. Joseph Groff, a neighbor, indicated that he was concerned about adverse effects of the Special Exception, including safety, parking, and chemical storage.
13. Jeff Weicht indicated that he opposed the Special Exception because it was a business use in a residential neighborhood.

14. Raymod Caugh, a neighbor who resides at 8 Steeple Avenue, indicated a concern with regard to the chemicals because of his lung condition.
15. In support of the Special Exception, the Applicant offered the following information:
 - a. The use will be in harmony with the orderly and appropriate development of the zoning district, and the location of the Home Occupation will not affect the existing or future streets giving access to the Property.
 - b. There is 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 or nature of the Home Occupation.
 - d. The Home Occupation will not create traffic congestion or cause commercial or industrial traffic to use residential streets.

CONCLUSIONS OF LAW

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

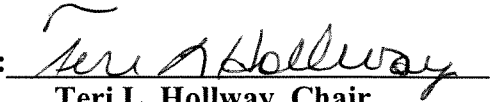
1. The Board concludes that some past practices of the Applicant with regard to the Business have not met all of the criteria for the Home Occupation.
2. However, with the representations as to how the Business will be run in the future, the Applicant has and will meet the criteria for a Special Exception (including, but not limited to, no outdoor storage on the Property).
3. Adequate parking facilities exist for the Home Occupation, provided that all such parking shall take place on the Applicant's Property.
4. The Board concludes that certain conditions should be imposed in conjunction with the grant of a Special Exception, including the following:
 - a. The non-resident employee shall park in the driveway on the Property, and the Applicant shall park their Business vehicles in the driveway too.
 - b. Deliveries and primary storage of chemicals shall be at the Red Lion warehouse facility, with only incidental overnight storage of unused chemicals inside the garage in the dwelling on the Property,
(Collectively the "Conditions")

Accordingly, Shirley Sterner moved and Glenn Myers seconded, to grant the Special Exception to establish a Home Occupation (office for commercial swimming pool maintenance and training business) on the Property, subject to the imposition of the Conditions, in the Residential-High Density (RH9) zone. The motion passed with a vote of 5-0, with all members voting in favor.

WITNESS/ATTEST

YORK TOWNSHIP
ZONING HEARING BOARD


Secretary

By: 
Teri L. Hollway, Chair

10-26-10
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.