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JILL K. ANDERSON, J.D.

November 3, 2021

Calvary Chapel Norristown
601 N. Park Avenue
Norristown PA 19403

Attention: Kevin Sand

**Re: Opinion, Decision and Order
Lower Providence Township Zoning Hearing Board Application #Z-21-19**

Dear Mr. Sand:

In accordance with the initial application filed on August 27, 2021, enclosed please find a copy of the Opinion, Decision and Order of the Lower Providence Township Zoning Hearing Board.

Yours very truly,



Keith B. McLennan

KBM/
Enclosure

Pc: George Ozorowski, Esq. Chairman
Joseph Pucci Vice-Chairman
Kathie A. Eskie
Gail Hager
Tina Blain

Patricia Alzamora
Christopher Gerdes
Randy Klein
Michael Mrozinski

ZONING HEARING BOARD OF LOWER PROVIDENCE TOWNSHIP

APPLICATION NO.	Z-21-19	:	HEARING DATE:	September 23, 2021
		:		
		:		
APPLICATION OF:		:		
	Calvary Chapel Norristown	:		
	601 N. Park Ave.	:		
	Norristown, PA 19403	:		
		:		
PROPERTY:		:		
	601 N. Park Ave.	:		
	Lower Providence Township	:		
	Norristown, PA 19403	:		
	Parcel No. 43-00-10282-00-7	:		

**OPINION, DECISION AND ORDER OF THE
LOWER PROVIDENCE TOWNSHIP ZONING HEARING BOARD**

On August 27, 2021, applicant Calvary Chapel Norristown filed an application requesting a Special Exception under Section 143-24.D(5) of Lower Providence Township Zoning Ordinance (the “Ordinance”), to allow the extension of a Temporary Structure Permit, together with any other relief deemed necessary or appropriate by the Board.

The application was properly advertised, and a public hearing began before the Lower Providence Township Zoning Hearing Board (the “Board”) on September 23, 2021. Present at the hearing were: George Ozorowski, Chairman, Kathie Eskie, Member, Gail Hager, Member, Patricia Alzamora, Member, Christopher Gerdes, Alternate, and Randy Klein, Alternate. Also present were Keith B. McLennan, Esquire, the Solicitor, and Mike Mrozinski, the Community Development Director.

FINDINGS OF FACT

1. The Applicant is Calvary Chapel Norristown (“Applicant”).
2. The Applicant was not represented by counsel.
3. The subject property is comprised of an approximately seven and one-half (7.5)

acre parcel with tax parcel number 43-00-10282-00-7 with a Permanent Church Sanctuary and a temporary RV trailer. (hereinafter the "Property").

4. Applicant is the tenant on the Property.
5. The Property is owned by M.B. Investments who approves of the Application.
6. The applicable zoning district is R-2 Residential.
7. Section 143-24 D (5) requires a special exception to approve the extension of a temporary permit.
8. John Campbell testified in favor of the Application.
9. Chris Rotando testified regarding his concerns relating to the Application.
10. A member of the Church is currently residing in a Recreational Vehicle (RV) on the Property until that member can locate other accommodations.
11. A permit was issued to authorize this use approximately six months ago.
12. There is currently a shortage of locations where the RV can be relocated.
13. The individual and the Church are not able to find a new location for the RV.
14. Applicant seeks to extend the permit until such a time that Applicant can find a new location for the RV.
15. Applicant and the individual have called local RV parks to seek a new location for the trailer.
16. The nearby locations are not available currently.
17. The individual is disabled and on social security.
18. The individual walks with a cane and driving is painful for him.
19. The current arrangement has had no negative impact on the community.
20. The following exhibits were included in the record of the hearing:

A – 1 Application.

B – 1 Certificate of Posting.

B – 2 Certificate of Notification.

B – 3 Letter of Notice.

B – 4 Matrix of Property Owners Notified by Mail.

DISCUSSION

I. Statement of the Case

Applicant requests a special exception under §143-24(D)(5) of the Lower Providence Township Zoning Ordinance to permit a six-month extension of the Temporary Structure Permit to allow a Recreational Vehicle to continue to provide housing to a church member on the Property.

II. Special Exceptions

A special exception is a conditionally permitted use, which the municipal legislative body has determined to be appropriate in the zoning district if specific standards set forth in the zoning ordinance are met. Mehring v. Zoning Hearing Bd. of Manchester Twp., 762 A.2d 1137, 1139 (Pa. Commw. 2000); In re Brickstone Realty Corp., 789 A.2d 333, 340 (Pa. Commw. 2001)(citing Bray v. Zoning Bd. of Adjustment, 410 A.2d 909, 911 (Pa. Commw. 1980)). A special exception is not an exception to a zoning ordinance, but rather it is an exception to a use, which is expressly permitted, absent a showing of a detrimental effect on the community. Greaton Properties, Inc. v. Lower Merion Twp., 796 A.2d 1038, 1045 (Pa. Commw. 2002); Freedom Healthcare Services, Inc. v. Zoning Hearing Bd. of City of New Castle, 983 A.2d 1286, 1291 (Pa. Commw. 2009); Morrell v. Zoning Hearing Bd. of Borough of Shrewsbury, 17 A.3d 972, 975 (Pa. Commw. 2011). A nonconforming use is converted into a permitted use by

Special Exception once it is zoned for that use in the township zoning ordinance. Pennridge Development Enterprises, Inc. v. Volovnik, 624 A.2d 674, 676 (Pa. Commw. 1993).

To establish entitlement to a special exception, the applicant must initially prove that the proposed use complies with the specific, objective criteria set forth in the zoning ordinance.

Mehring v. Zoning Hearing Bd. of Manchester Twp., 762 A.2d 1137, 1139 (Pa. Commw. 2000).

An applicant for a special exception has the burden of establishing by competent evidence and testimony both: (a) that the applicant's application falls within the provisions of the ordinance which accords to the applicant the right to seek a special exception; and (b) that the allowance of a special exception will not be contrary to the public interest. See Section 143-168(D).(1). When determining whether the grant of a special exception is contrary to the public interest, the Zoning Hearing Board will consider whether the application, if granted, will:

- (a) Substantially increase traffic congestion in the streets surrounding the subject site;
- (b) Increase the risk of fire or panic or otherwise endanger the public safety;
- (c) Overcrowd the land or create undue concentration of population;
- (d) Be suitable for the property in question so as to be consistent with the spirit and purpose of the provisions of this chapter;
- (e) Intrude upon the adequacy of natural light and air to adjoining properties;
- (f) Create extraordinary burdens on public, private or community water systems or upon ground waters or wells within the neighborhood;
- (g) Overburden the public sanitary sewer system within the Township occasion environmental problems with on-site sanitary sewer installations;
- (h) Place undue burdens upon the police, fire, ambulance or other emergency services provided throughout the neighborhood;
- (i) Cause adverse effects to the appropriate use of adjacent properties in the neighborhood where the property is located;

(j) Cause risk or danger to the safety of persons or property by improper location or design of facilities for ingress and egress to and from the property in question; or

(k) Otherwise adversely affect the public health, safety, morals or general public welfare of the community. LPTZO Section 143-168(D).(3).

III. **Facts Applied to the Legal Standard.**

Applicant requests a special exception under §143-24(D)(5) of the Lower Providence Township Zoning Ordinance to permit a six-month extension of the Temporary Structure Permit to allow a Recreational Vehicle to continue to provide housing to a church member on the Property.

Applicant first must establish a right to request the special exception under the zoning ordinance. Here, as discussed above, Applicant is requesting an extension to the previously granted Temporary Structure Permit. This is a Special Exception in the R-2 residential district under §143-24(D)(5) of the Lower Providence Township Zoning Ordinance. Therefore, Applicant has established the right to request a special exception under §143-24(D)(5) of the Ordinance.

Second, the Applicant must show that allowing the special exception will not be contrary to the public interest. The relief granted along with the conditions set upon that relief are not contrary to the public interest. The requested relief will not substantially increase traffic congestion in the streets surrounding the subject site. There will only be one individual at the location, and therefore, there is no increased risk of fire or panic which would endanger public safety. Further, an inspection will occur to make certain that there is no increased risk of fire or other catastrophe.

The continued use of the RV on the church property will not overcrowd the land. The location of the RV on the property is such that it will be close to the church and will not intrude

on the natural light and air of adjoining properties. The use of the RV for a single individual will not burden the utilities in the neighborhood. Further, the individual has provided additional security to the property to prevent misuse of the church parking lot after hours. The requested use will be limited to the time necessary to resolve the housing instability issue for the occupant.

The extension is for six months and became necessary due to the lack of available locations for the RV to be permanently placed. There have not been any concerns caused by the RV in the time it has been located on the property. With the additional condition of a safety inspection, any concerns for the impact on the community are resolved. Finally, the use of the property to benefit an individual struggling with housing insecurity is in the public interest. Without such assistance, additional hardships could befall the occupant and the community. Therefore, Applicant has established that the special exception is not contrary to the public interest.

CONCLUSIONS OF LAW

- (1) Applicant's application falls within the provisions of the ordinance which accords to the Applicant the right to seek a special exception.
- (2) Allowance of a special exception will not be contrary to the public interest.

DECISION

The decision of the Lower Providence Township Zoning Hearing Board by a 5-0 vote is as follows:

The Application of Calvary Chapel Norristown docket #Z-21-19 for a special exception under **§143-24(D)(5)** of the Lower Providence Township Zoning Ordinance to permit a six-month extension of the Temporary Structure Permit is **GRANTED** subject to the following conditions:

1. successful inspection of the temporary structure by Lower Providence Township to ensure it is safe.
2. The occupant of the temporary structure is placed on RV Park waiting lists in the area in order to place the temporary structure in a more appropriate location prior to the extension of the permit expiring.
3. Visitors to the trailer shall park on the church property and not on the street in the cul-de-sac.
4. Robert Martin is the only individual permitted to reside in the trailer.

Dated: November 1, 2021

ORDER

The foregoing Findings, Discussion and Decision are hereby approved and ordered.

LOWER PROVIDENCE TOWNSHIP ZONING HEARING BOARD



George Ozorowski

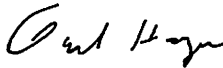
Joseph Pucci



Kathie Eskie



Patricia Alzamora



Gail Hager



Christopher Gerdes, Alternate

Randy Klein, Alternate

NOTICE TO APPLICANT

There is a thirty (30) day period after the date of a decision for an aggrieved person to file an appeal in the Court of Common Pleas of Montgomery County to contest an approval or denial by the Zoning Hearing board. If the Applicant has been granted Zoning Hearing Board approval, the Applicant may take action on said approval during the thirty (30) day appeal period; however, the Applicant will do so at his or her own risk. If the Applicant received Zoning Hearing Board approval, the Applicant must secure all applicable permits from Lower Providence Township within one (1) year of the date of the approval or the decision granting approval.