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August 20, 2014

SENT VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED
7013 2630 0000 6142 8203

Khalid Khattabi
956 S. Trooper Road
Norristown, PA 19403

RE: 3301 Ridge Pike, Eagleville, PA 19403; Parcel No. 43-00-11995-004;
Notice of Decision of the Lower Providence Township Zoning Hearing Board
Application Z-14-11

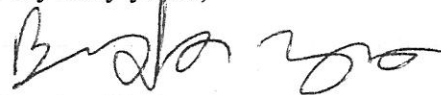
Dear Mr. Khattabi:

I am writing in accordance with the Pennsylvania Municipalities Planning Code. Enclosed please find a corrected Notice of Decision of the Lower Providence Township Zoning Hearing Board taken at the hearing held on July 24, 2014. We mistakenly did not mention that Kathie A. Eskie's vote was abstained.

Pursuant to the decision of the Zoning Hearing Board your application for a variance from the use requirements of Section 143-118F Lower Providence Zoning Ordinance is granted.

Should you have any questions regarding the foregoing please contact me.

Very truly yours,



Brandon H. Zanan

BHZ:sld

pc. Frank Caiola, Esquire – Certified Mail Return Receipt 7013 2630 0000 6142 8210
Nancy J. McFarland, Zoning Hearing Board Chair
Mr. Thomas A. Borai
Ms. Joyce D. Cluley
Mr. Robert G. Hardt
Ms. Kathie A. Eskie
Michael Mrozinski, Community Development Director

ZONING HEARING BOARD OF LOWER PROVIDENCE TOWNSHIP

APPLICATION NO. Z-14-11 : HEARING DATE: July 24, 2014

APPLICATION OF:
Khalid Khattabi

PROPERTY:
3301 Ridge Pike
Lower Providence Township
Eagleview, PA 19403
Parcel No. 43-00-11995-00-4

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

The applicant, Khalid Khattabi (hereinafter "Applicant") filed an application requesting a variance from the use requirements of Section 143-118F of the Lower Providence Township Zoning Ordinance to allow a new use to the existing professional office as a daycare facility. The application was properly advertised, and a public hearing was held before the Lower Providence Township Zoning Hearing Board (the "Board") on July 24, 2014 at the Lower Providence Township Building. Four of the five members of the Board were present. Also present were Brandon Zanan, Esq., the Solicitor, Michael Mrozinski, the Director of Community Development responsible for Zoning/Code Enforcement and the Court Reporter.

FINDINGS OF FACT

1. The Applicant is Khalid Khattabi.
2. The Applicant is the lessee of the subject property located at 3301 Ridge Pike, Eagleview, PA 19403 (hereinafter the "Property"). The parcel number is 43-00-11995-004.
3. The owner of the property is Joseph Giuseppe Dellagatti of Dellagatti Property Management, LLC
4. The applicable zoning district is RPBD Ridge Pike Business District.

5. The Applicant was represented by Frank Caoila, Esq., of Oliver & Caiola LLC.
6. The lot size is 30,492 square feet.
7. The building on the Property is presently not in use; its last use was as a doctor's office.
8. Applicant leased the property in May of 2014 with the intention of using the property as a daycare facility.
9. Khalid Khattabi, the applicant and Giuseppe Dellagatti, the property owner, were sworn in as witnesses in support of the application.
10. The following exhibits were marked at the hearing:
 - B-1 Application filed at Z 14-09
 - B-2 Advertisement
 - B-3 Proof of publication
 - A-1 Deed of Property
 - A-2 Certificate from Office of Child Development
 - A-3 Satellite Overview of Property
 - A-4 Future Design of Interior of Building
 - A-5 Current Design of Interior of Building
 - A-6 Block Plan
11. The hours of operation will be 6 a.m. to 5 p.m. and the age group would be two months to five years.
12. A playground adjacent to the daycare facility was also proposed.
13. There was public comment in support of this application.
14. There is unnecessary hardship requiring the grant of a use variance.

DISCUSSION and CONCLUSIONS OF LAW

The Applicant has requested a variance from Sections 143-118F of the Lower Providence Township Zoning Ordinance to allow a new use to the building following criteria in 143-259L. The request seeks relief as to the use requirements imposed in the RPBD Ridge Pike Business District.

Differing standards apply to use and dimensional variances. Generally, a variance requires the applicant to show that unnecessary hardship will result if a variance is denied, and that the proposed use will not be contrary to public interest. Hertzberg v. Zoning Bd. Of Pittsburgh, 554 Pa. 249, 257, 721 A.2d 43, 47 (1998) (citing Allegheny West Civic Council, Inc. v. Zoning Bd. Of Adjustment of the City of Pittsburgh, 547 Pa. 163, 167, 689 A.2d 225, 227 (1997)). The quantum of proof required to establish unnecessary hardship in the case of a dimensional variance is, however, lesser than when a use variance is sought. Id. at 258-59.

Regardless of the type of variance sought, the reasons for granting a variance must be substantial, serious, and compelling. POA Company v. Findlay Township Zoning Hearing Board, 551 Pa. 689, 713 A.2d 70 (1998); Evans v. Zoning Hearing Board of the Borough of Spring City, 732 A.2d 686 (Pa. Commw. 1999); Soteneanos, Inc. v. Zoning Board of Adjustment of the City of Pittsburgh, 711 A.2d 549 (Pa. Commw. 1998). Pursuant to the Municipalities Planning Code the following must be found in order for the Board to grant the requested variance:

- (1) That there are unique circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the zoning ordinance in the neighborhood or district in which the property is located.

(2) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

(3) That such unnecessary hardship has not been created by the applicant.

(4) That 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.

(5) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue. 53 P.S. § 10910.2.

The unique circumstances of the Applicants and the subject Property require the grant of a variance. Undue hardship would result from a denial of the variance. This hardship is not self-imposed but is rather the result of the zoning rules of the Ridge Pike Business District and the fact that the building was not used previously as a daycare facility. Also, the essential character of the neighborhood will not be changed, and the applicant will notify the Lower Providence Police Department that "No Parking" signs should be installed on Summit Avenue. In addition, a playground for the daycare facility was also proposed, with a fence that would comply with all applicable criteria and requirements set forth in the Township Zoning Ordinance. The variance represents the minimum variance that will afford relief and represents the least modification possible of the applicable provisions of the zoning ordinance.

Accordingly, the Board finds that the application for a variance from the use requirements of Section 143-118F of the Lower Providence Township Zoning Ordinance is granted, with the condition that a fence constructed in accordance with Section 81-1 of the

Lower Providence Township Zoning Ordinance be placed around the playground and the installation of "No Parking" signs for Summit Avenue providing the police department is notified and approves installation.

CONCLUSIONS OF LAW

1. The Applicant has standing to appear before the Board regarding the requested relief.
2. Denial of the requested relief will impose an unnecessary hardship on the Applicant.
3. The hardship is not self-imposed, and is due to the unique circumstances of the Property.
4. The requested relief is necessary to enable the Applicants' reasonable use of the Property, represents the minimum that will afford relief, and represents the least modification possible of the regulation at issue. The proposed daycare facility will not alter the essential character of the neighborhood in which the Property is located, and neighbors have no opposition.

DECISION

The decision of the Lower Providence Township Zoning Hearing Board by a 3-0 vote with one abstention is as follows:

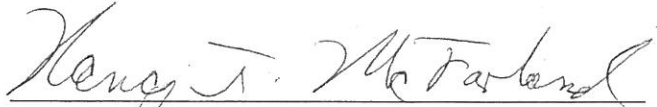
The application for a variance from Section 143-118F of the Lower Providence Township Zoning Ordinance is granted with the condition that a fence constructed in accordance with Section 81-1 of the Lower Providence Township Zoning Ordinance be placed around the playground and the installation of "No Parking" signs for Summit Avenue providing the police department is notified and approves installation.

Dated: August 14, 2014

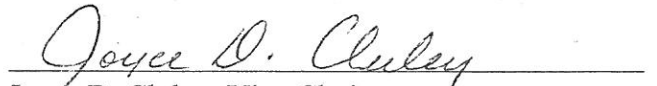
ORDER

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

LOWER PROVIDENCE TOWNSHIP
ZONING HEARING BOARD



Nancy McFarland, Chairwoman



Joyce D. Cluley, Vice Chairwoman



Thomas A. Borai

Robert G. Hardt

 (abstained)

Kathie A. Eskie

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.