

ZONING HEARING BOARD OF LOWER PROVIDENCE TOWNSHIP

APPLICATION NO. Z-18-06 : HEARING DATE: May 24, 2018

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APPLICATION OF:

St. James' Episcopal Church

PROPERTY:

3814 Germantown Pike

Collegeville, PA 19426

Parcel Nos. 43-00-05245-00-4

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

Applicant St. James' Episcopal Church (hereinafter the "Applicant") filed an application requesting a special exception under Section 143-27.A.(7)(a)1 of the Lower Providence Township Zoning Ordinance (hereinafter the "Ordinance") for the construction of an "Outreach House or Center" to help feed and clothe those in need in the Lower Providence and surrounding communities. The application was properly advertised, and a public hearing was held before the Lower Providence Township Zoning Hearing Board (the "Board") on May 24, 2018 at the Lower Providence Township Building. Vice Chair Gail Hager and members Patricia Alzamora, George Ozorowski, Jill Zimmerman and Robert Hardt were present. Also present were Michael Mrozinski, the Director of Community Development responsible for Zoning/Code Enforcement, Paula Meszaros, the Court Reporter and Keith B. McLennan, Esquire, the Solicitor.

FINDINGS OF FACT

¹ The Application refers to §143-27(7)(a) of the Ordinance as the applicable section however, at the hearing it was agreed by the applicant that §143-27.A.(7)(a) was the appropriate Ordinance section.

10. Currently, Applicant serves 85 families who have been referred to Applicant from area clergy, school guidance counselors and social service agencies.

11. Typical families served are single, foster, two-parent families, abused women, the disabled, mentally challenged and the elderly.

12. Applicant also provides donated food through the Paddy Pack Program to over 130 school students at Arrowhead and Woodlyn Elementary Schools for nutritious weekend meals that are delivered to them at the schools by the Applicant from its food bank.

13. The typical hours of operation of the Outreach House when those in need visit are Monday afternoons from 12:00 PM to 2:00 PM; Wednesday morning from 9:30 AM to 11:00 AM; Wednesday evenings by appointment and Saturday mornings.

14. The religious and philanthropic use predated the passage of the comprehensive zoning ordinance on May 8, 1955.

15. The application seeks to construct a new, one story Outreach Center to assist the growing need of the community with a more efficient facility to administer to their needs.

16. If granted, the requested special exception will not:

- 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 unsuitable for the property in question so as to be inconsistent with the spirit and purpose of the Ordinance;
- 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 installation;

h. Place undue burdens upon the police, fire, ambulance or other
emergency services provided throughout the neighborhood;

i. Cause adverse effects of 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;

k. Otherwise adversely affect public health, safety, morals or general
public welfare of the community.

17. The following exhibits were offered at the hearing:

- A-1 Outreach House Pamphlet.
- A-2 Building Layout Plan by Godshall Kane O'Rourke Architects, LLC dated
September 13, 2016.

- A-3 Application.
- A-4 Site Plan for the Property by CMC Engineering dated August 7, 2017.
- B-1 Advertisement;
- B-2 Proof of Publication.

DISCUSSION

I. Special Exception Legal Standard

A special exception is not an exception to a zoning ordinance, but rather a use, which is expressly permitted, absent a showing of a detrimental effect on the community. Greaton

Properties, Inc. v. Lower Merion Township, 796 A.2d 1038 (Pa. Cmwlth. 2002) (internal citation omitted). An applicant for a special exception shall have the burden of establishing by competent evidence and testimony that: a) 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. Ordinance §143-168.D(1).

Under Ordinance §143-168.D(3), when determining whether the grant of the special exception is contrary to public interest the Board must 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.

The applicable Ordinance section is 143–27.A.(7)(a) which states:

§143–27. Permitted uses.

A. The following are permitted uses in all residential zoning districts:

(7) The following uses when approved by the Zoning Hearing Board as a special exception:

(a) private education institution, hospital or sanatorium and religious or philanthropic use, excluding correctional or penal institution.

II. Facts Applied to the Legal Standard.

As noted above in the Findings of Fact, Applicant has established that the Property is suitable for Applicant’s intended use. Further, Applicant has demonstrated that the Application falls within the governing Ordinance §143–27.A.(7)(a). Further, applicant has demonstrated that its continued use as an Outreach House will not cause the negative impact described in factors (a) – (c) and (e) – (k) above. Continuing the existing non-conformity of an Outreach House in a newly constructed building that will comply with the Township’s land development ordinance is authorized by Ordinance §§143-27.A.(7)(a) and §143-168.D(3). The proposed use by special exception is a mere continuation of the existing philanthropic use of an Outreach Center. The requested special exception will change little and will have no adverse effect on the public interest in fact, it is consistent with and enhances the public interest. Accordingly the special exception requested is warranted.

CONCLUSIONS OF LAW

1. Applicant has standing to appear before the Board regarding the requested relief.
2. The proposed Application for a special exception falls within the provisions of §143-27.A.(7)(a) of the Ordinance.

3. The allowance of the special exception will not be contrary to the public interest.

DECISION

The unanimous decision of the Lower Providence Township Zoning Hearing Board is as follows:

The application for a special exception pursuant to §143-27.A.(7)(a) of the Lower Providence Township Zoning Ordinance for use as an OUTREACH CENTER in the R-2 Residential District is **Granted**.

Dated: July 7, 2018

ORDER

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

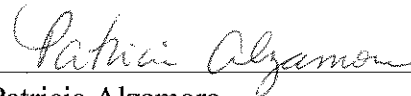
LOWER PROVIDENCE TOWNSHIP
ZONING HEARING BOARD

Kathie A. Eskie, Chairwoman

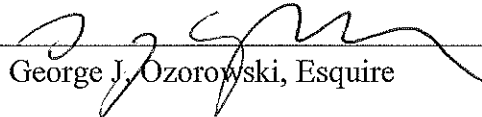


Gail Hager, Vice Chairwoman

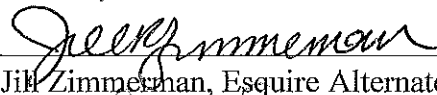
Joseph Pucci



Patricia Alzamora



George J. Ozorowski, Esquire



Jill Zimmerman, Esquire Alternate



Robert G. Hardt, 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.