

BEFORE THE ZONING HEARING BOARD OF DICKINSON TOWNSHIP
CUMBERLAND COUNTY, PENNSYLVANIA

In re: Application of : Docket No. 2013-01
Dr. and Mrs. Robert Myers :
: :
: Application for Use Determination & Use
Variance

PRESIDING: Michael Gennett

PRESENT: Gerald Eby, Member; Ellen Colyer, Member

FINDINGS OF FACT AND CONCLUSIONS OF LAW

FINDINGS OF FACT

1. The Applicant is Dr. and Mrs. Robert Myers (hereinafter “applicant”), who reside in Camp Hill, Pennsylvania.

2. Applicant owns 93 Encks Mill Road, Carlisle, Pennsylvania 17015 (hereinafter “property”), which property is located in the Agricultural District.

3. The property is approximately 117 acres in size and is improved with a number of structures, including:

- a. A residence which is approximately 8,300 square feet in size;
- b. Two apartments in a limestone structure;
- c. Two apartments attached to or near a barn;
- d. A building approximately 60 feet by 120 feet;
- e. A multiple bay limestone garage;
- f. A barn; and

- g. Three structures approximately 100 yards in length by 50 yards long which formerly housed hogs.
4. The neighborhood is 90% farm uses according to applicant.
5. The property has mature gardens containing trees, shrubs, flowers and various plantings.
6. Applicant has two concepts for the property; the first is a reception/resort/retreat facility; the second is self-storage.
7. With respect to the first use, applicant primarily discussed the use of the property to host wedding parties and receptions. Applicant testified that the concept would be for one wedding per weekend. Applicant would expect the wedding party and immediate family to spend the weekend at the facility and wedding guests would arrive and depart one of the weekend days for the ceremony and reception.
8. The maximum number of guests anticipated for a typical wedding would be 150.
9. Applicant would nevertheless have parking for between 250 and 300 automobiles.
10. Applicant could envision other uses such as a weekend retreat facility for corporate outings and business meetings.
11. Applicant would retain a third party contractor identified at the hearing as "JDK Catering" to operate the facilities.
12. Someone would reside at the property on a full time basis to oversee the property and assist in operating the facility.
13. Applicant does not intend to add structures to the property at this time except for perhaps a fence at the public road.
14. Applicant plans for a very discreet sign to mark entry to the property.

15. Applicant intends to be open for business in the Spring of 2014.

16. Applicant's second plan for the property would be to create self-storage facilities in what used to be the hog barn(s).

17. Lessees would have access to their unit when convenient to lessee.

18. Applicant plans between 200 to 250 storage units.

19. Applicant believes that most Lessees would access their unit very infrequently and as such the use would generate very little traffic.

20. The self-storage use would be "phase II" of applicant's plan and applicant did not provide a date when he thought this use would be in operation.

21. Mr. Steven Fore and Mrs. Karen Fore of 136 Encks Mill Road, Carlisle, Pennsylvania reside near the property and appeared at the hearing and expressed concern about the ability of Encks Mill Road to handle traffic to and from the property; additional traffic created by the project; and a concern about noise.

22. Dale Baer of 66 Encks Mill Road also appeared at the hearing and expressed similar concerns to those of the Fores.

23. Gary Whitaker of 102 Encks Mill Road also appeared at the hearing and expressed similar concerns to those of the Fores and Mr. Baer.

24. A hearing was held on July 16, 2013 at 6:00 p.m. at the Dickinson Township Municipal Building, 219 Mountain View Road, Mount Holly Springs, PA 17065, with all notices provided as required by law.

CONCLUSIONS OF LAW

A reception/retreat/resort facility is neither expressly permitted or denied in the agricultural district. Section 205-87 is entitled "Uses not provided for" and states that "In a district established by this chapter, when a specific use is neither permitted nor denied, the Zoning Hearing Board shall make a determination as to the similarity or compatibility of the use in question to the permitted uses in the district, as well as the general purpose and intent of this chapter. No zoning permit shall be issued by the Zoning officer of any unspecified use until this determination has been made."

The Board believes that the reception/retreat/resort facility is similar and compatible with the permitted uses in the agricultural district and believes that it is an appropriate use of the property.

Furthermore, the Board believes that due to the uniqueness of the property and the difficulty of incorporating the existing buildings into a useful, unified concept that the ordinance inflicts a hardship upon applicant's ability to use the property. Since the Board believes that the use of the former hog barns on the property as storage facilities will not alter the nature of the neighborhood and that the hardship has not been created by applicant, the Board believes that the use variance is appropriate.

DECISION

A motion was made by Michael Gennett and seconded by Gerald Eby to approve the application, the motion carried with three votes in favor and none opposed. In approving the application, the Board imposed the following conditions:

1. No amplified outdoor music is permitted on the property after 11:00 p.m.; and,

2. Applicant must comply with Section 205-67 of the Ordinance relative to self-storage facilities.

DICKINSON TOWNSHIP
ZONING HEARING BOARD

Date: 23 July 2013




Michael Gennett, Chairman

Date: 07/22/2013



Ellen Colyer, Member

Date: 07/23/2013



Gerald Eby, Member

APPLICANT SHALL ABIDE BY ALL FEDERAL, STATE AND LOCAL LAWS AND ORDINANCES PERTAINING TO PERMISSIONS GRANTED BY THIS DECISION.

APPLICANT SHALL PROCEED PURSUANT TO THIS DECISION IN ACCORDANCE WITH THE TESTIMONY AND EXHIBITS PRESENTED AT THE HEARING.

ANY PERSON AGGRIEVED BY THE DECISION OF THE DICKINSON TOWNSHIP ZONING HEARING BOARD MAY APPEAL TO THE COURT OF COMMON PLEAS OF CUMBERLAND COUNTY. THE APPEAL MUST BE FILED WITHIN 30 DAYS FROM THE MAILING DATE OF THESE FINDINGS OF FACT AND CONCLUSIONS OF LAW.

NO CONSTRUCTION MAY BEGIN UNTIL A BUILDING PERMIT IS ISSUED.

MAIL DATE: