

IN RE: : BEFORE THE ZONING HEARING
APPLICATION OF RAYMOND AND : BOARD OF DICKINSON TOWNSHIP
ELIZABETH BANKERT : CUMBERLAND COUNTY, PENNSYLVANIA
: DOCKET NO. 2022-0006

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION GRANTING APPLICANTS' REQUEST A SPECIAL EXCEPTION SEEKING APPROVAL FOR A USE THAT IS NOT PROVIDED FOR WITHIN THE DICKINSON TOWNSHIP ZONING ORDINANCE

The Applicants seek approval of a use that is not provided for within the Dickinson Township Zoning Ordinance, to wit: a Bird of Prey/Falconer. Section 205-7.B of the Dickinson Township Zoning Ordinance provides that whenever a use is neither specifically permitted nor denied by this chapter and an application is made to the Zoning Officer for such use, the Zoning Officer shall refer the application to the Zoning Hearing Board to hear and decide such request as a special exception. The Zoning Hearing Board shall have the authority to permit the use or deny the use, in accordance with the standards governing special exception applications. A hearing on the Application was held by the Dickinson Township Zoning Hearing Board on Wednesday, October 26, 2022 at 7:00 p.m. at the Dickinson Township Municipal Building, 219 Mountain View Road, Mount Holly Springs, PA 17065.

FINDINGS OF FACT

1. The Applicants are Raymond Bankert and Elizabeth Bankert (the "Applicants"), who reside at 19 Holly Estates Drive, Gardners, Pennsylvania 17324.
2. The Applicants are the owners of property located at 19 Holly Estates Drive,

Gardners, Pennsylvania 17324, (the "Subject Property"). The Parcel Identification Number is 08-16-0210-094.

3. The Subject Property is 1.03 acres in area and located in the Low Density Residential (LDR) zone.

4. The Applicant's Property is currently improved with a single-family home.

5. The neighborhood surrounding the Subject Property is low density residential in nature, with single family detached dwellings on lots of approximately one acre each.

6. The Applicants seek approval for a use not provided for within the Zoning Ordinance, specifically a Bird of Prey/Falconer.

7. The Applicants intend to have only one Bird of Prey or Raptor on the Subject Property.

8. The proposed use is not permitted in any zone.

9. The proposed use on the Subject Property would not be detrimental to the public health, safety and welfare of the neighborhood or Township.

10. Notice of the hearing was duly advertised in The Sentinel, a newspaper of general circulation, on October 14, 2022 and October 19, 2022.

11. The Subject Property was posted on October 19, 2022.

12. Notification of the hearing was mailed by certified mail to surrounding property owners within 200 feet of the Subject Property on October 13, 2022.

13. The owners of the properties surrounding the Subject Property did not oppose the Applicants' request.

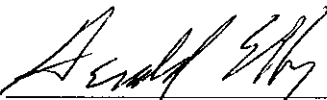
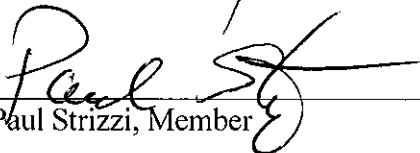
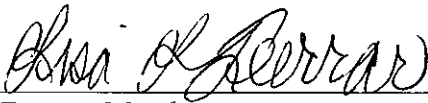
CONCLUSIONS OF LAW

1. Section 205-7.B of the Zoning Ordinance governs uses not provided for.
2. To approve the use, the Board must find that the proposed use: (a) is located in a zone in which the most similar use to the proposed use is permitted by special exception or by conditional use, and in doing so the Zoning Hearing Board shall have discretion in determining whether the proposed use is actually most similar to the use advanced by the applicant as most similar; (b) is not permitted in any other zone under the terms of this chapter; (c) is proposed in a manner that complies with all applicable requirements imposed upon other uses that in the opinion of the Zoning Hearing Board most closely reflects the likely impacts that will be generated by the proposed use; (d) complies with all other applicable sections of this chapter and other ordinances of the Township; (e) does not conflict with the general purposes and intent of this chapter; and (f) would not be detrimental to the public health, safety and welfare of the neighborhood or Township.
3. The burden of proof shall be on the Applicant to demonstrate that the proposed use meets the foregoing criteria and meets all applicable criteria and meets all applicable regulations contained within this chapter, including but not limited to those general criteria contained within Section 205-151C(2) of the Zoning Ordinance
4. The Zoning Hearing Board finds that the Applicants have met their burden of proof with regard to the criteria set forth in Section 205-7 of the Zoning Ordinance.
5. In addition, the Zoning Hearing Board finds that the proposed use meets all applicable regulations contained in this chapter, including, but not limited to those general criteria contained within Section 205-151C(2).

DECISION

In view of the foregoing and having carefully considered the testimony and exhibits submitted to the Board, the request for a special exception to allow the proposed use on the Subject Property is granted, subject to the condition that there shall be no more than one (1) bird of prey or raptor on the Subject Property.

VOTE

<u>yes</u>	 _____ Gerald Eby, Chairman
<u>yes</u>	 _____ Paul Strizzi, Member
<u>yes</u>	 _____ Lisa Feerrar, Member

ANY PERSON AGGRIEVED BY THIS 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 OF THE MAILING DATE OF THIS DECISION.

MAILING DATE: