

IN RE: : BEFORE THE ZONING HEARING
APPLICATION OF DALE C. AND : BOARD OF DICKINSON TOWNSHIP
LISA M. THOMAS : CUMBERLAND COUNTY, PENNSYLVANIA
: DOCKET NO. 2023-03

**FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DECISION GRANTING
APPLICANTS' REQUEST FOR A SPECIAL EXCEPTION**

The Applicants seek a variance to allow the construction of a permanent open air pavilion to be used for event use purposes on the Subject Property, specifically to replace the use of large tents. In addition, the Applicants also want to construct an open roof pergola in approximately 1 to 2 years. A hearing on the application was held by the Dickinson Township Zoning Hearing Board on Wednesday, June 28, 2023 at 5:00 p.m. at the Dickinson Township Municipal Building, 219 Mountain View Road, Mount Holly Springs, PA 17065.

FINDINGS OF FACT

1. The Applicants are Dale C. Thomas and Lisa M. Thomas (the "Applicants"), who reside at 120 Peach Glen Road, Gardners, Pennsylvania 17324.
2. The Applicants are the owners of property located at 120 Peach Glen Road, Gardners, Pennsylvania 17324, (the "Subject Property"). The Parcel Identification Number is 08-16-0212-039.
3. The Subject Property is rectangular in shape and is currently improved with a single-family dwelling, garage and accessory structures and located in the Agricultural (A) Zoning District.

4. The Applicants operate a small events-based business, which includes, among other things, wedding events, on the Subject Property.

5. The Subject Property was approved for event use purposes in January of 2022.

6. The Subject Property is approximately 14.9 acres in size, with 11.73 acres devoted to agricultural use.

7. The proposed pavilion will be located next to the granary on the Subject Property.

8. The proposed pavilion will be a metal frame building 25 feet by 40 feet with 10 foot sidewalls.

9. The roof of the pavilion would consist of sheet metal.

10. Siding would be reclaimed barn wood to match the granary.

11. The sides of the pavilion would be open air.

12. The pavilion would be similar to a barn structure on the original property because of the use of reclaimed wood siding to give it an historic aesthetic.

13. The open roof pergola would have a maximum dimension of 25 feet by 30 feet.

14. The pergola would be attached to the granary on the 25 foot side.

15. Smaller additional tents may still be used in some instances.

14. The Subject Property is surrounded by land devoted to agricultural uses.

15. There are only a few single-family dwellings in close proximity to the Subject Property.

16. The general character of the neighborhood has not been altered by the use of the Subject Property for events.

17. There was no opposition to the request for a special exception.

18. The proposed use will be consistent with the purpose and intent of this chapter and such use is specifically authorized by special exception within the zone wherein the applicant seeks approval.

19. The proposed use will not detract from the use and enjoyment of adjoining or nearby properties.

20. The proposed use will not substantially change the character of the subject property's neighborhood nor adversely affect the character of the general neighborhood, the conservation of property values, the health and safety of residents and workers on adjacent properties and in the neighborhood, nor the reasonable use of neighboring properties. The use of adjacent properties will be adequately safeguarded.

21. Adequate public facilities are available to serve the proposed use and the proposed use will not have an adverse effect upon the logical and economic extension of such public services and facilities (e.g., schools, parks and recreation, fire, police and ambulance protection, sewer, water, and other utilities, vehicular access, etc.)

22. The applicant established by credible evidence that the proposed pavilion and pergola would be properly designed and constructed and all required permits would be obtained by the Applicants.

23. The proposed use demonstrates a substantial likelihood of compliance with the requirements of Article V of this chapter.

24. The proposed use complies with those criteria specifically listed in Article IV of this chapter. In addition, the proposed use complies with all other applicable regulations contained in this chapter.

25. The proposed use will not substantially impair the integrity of the Comprehensive Plan.

26. Notice of the hearing was duly advertised in The Sentinel, a newspaper of general circulation, on June 14, 2023 and June 21, 2023.

28. The Subject Property was posted on June 21, 2023.

29. Notification of the hearing was mailed to surrounding property owners within 200 feet of the Subject Property

CONCLUSIONS OF LAW

1. Section 909.1(a)(5) of the Municipalities Planning Code (“MPC”), 53 P.S. §10909.1(a)(5) and Section 205-7 of the Zoning Ordinance requires the Board to hear requests for special exceptions and empowers the Board to grant or deny, in specific cases, special exceptions in accordance with express standards and criteria. The Zoning Ordinance and the MPC provide further that in granting any special exceptions, the Board may attach reasonable conditions deemed necessary to protect the public welfare and implement the purposes of the Zoning Ordinance and MPC.

2. Section 205-7 of the Zoning Ordinance provides that whenever a use is neither specifically permitted nor denied by this chapter and an application is made by an applicant 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.

3. With the construction of the pavilion and the pergola, the Subject Property will remain as a location for events in the (A) Agricultural Zoning District.

4. The Zoning Hearing Board has the discretion in determining whether the proposed use is actually most similar to the use advanced by the applicant as most similar.

5. The proposed use is not permitted in any other zone under the terms of this chapter.

6. The proposed use complies with all applicable requirements imposed on other uses that most closely reflect the likely impacts that will be generated by the proposed use.

7. The proposed use complies with all other applicable sections of this chapter and other ordinances of the Township.

8. The proposed use does not conflict with the general purposes and intent of this chapter.

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

10. The burden of proof shall be upon the applicant to demonstrate that the proposed use meets the criteria in Section 205-7.B of the Zoning Ordinance 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.

11. The proposed use shall be consistent with the purpose and intent of this chapter and such use is specifically authorized by special exception within the zone wherein the applicant seeks approval.

12. The proposed use shall not detract from the use and enjoyment of adjoining or nearby properties.

13. The proposed use shall not substantially change the character of the subject property's neighborhood nor adversely affect the character of the general neighborhood, the conservation of property values, the health and safety of residents and workers on adjacent properties and in the neighborhood, nor the reasonable use of neighboring properties. The use of adjacent properties shall be adequately safeguarded.

15. The applicant shall establish by credible evidence that the proposed special exception for the proposed pavilion and pergola would be properly designed and constructed and all required permits would be obtained by the Applicants.

16. The proposed use shall demonstrate a substantial likelihood of compliance with the requirements of Article V of this chapter.

17. The proposed use shall comply with those criteria specifically listed in Article IV of this chapter. In addition, the proposed use shall comply with all other applicable regulations contained in this chapter.

18. The proposed use shall not substantially impair the integrity of the Comprehensive Plan.

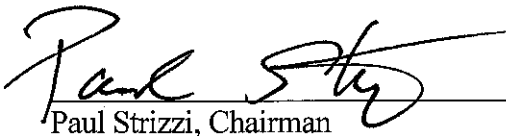
19. The Applicants have met their burden of proof to demonstrate that the proposed use meets the criteria in Section 205-7.B of the Zoning Ordinance and meets all applicable regulations contained within this chapter, including, but not limited to those general criteria contained within Section 205-151C(2) of the Zoning Ordinance.

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 events, such as weddings, to occur on the Subject Property in the Agricultural (A) Zoning District is granted in strict accordance with the testimony and exhibits, subject to the following condition:

8. Any future improvements, including buildings to the Subject Property shall be approved by the Zoning Hearing Board prior to construction.

VOTE

Yes 
Paul Strizzi, Chairman

Yes 
Gerald Eby, Member

Yes 
Lisa Feerrar, Member