

IN THE MATTER OF : BEFORE THE LOWER ALLEN TOWNSHIP
THE APPLICATION OF : ZONING HEARING BOARD
JMS PROPERTY, LLC : CUMBERLAND COUNTY, PENNSYLVANIA
: :
: DOCKET NO. 2019-04

DECISION GRANTING A VARIANCE

The Applicant seeks a variance from the parking space setback requirement of section 220-242(L)(2)(b) of the Codified Ordinances. A hearing was held before the Board on May 16, 2019.

FINDINGS OF FACT

1. Notice of the hearing was properly advertised, the subject property was posted, and all property owners required to be notified of the hearing were notified in accordance with the Codified Ordinances.

2. The Applicant is JMS Property, LLC, 4500 Gettysburg Road, Mechanicsburg, PA 17055.

3. The Applicant is the owner of the subject property.

4. The subject property is an L-shaped parcel of land located in a C-2 Zoning District, improved with a building known as 4500 Gettysburg Road, currently used as a beauty salon.

5. The subject property is bounded on the south by Gettysburg Road, on the east by Rupp Avenue, on the west by

unopened Trinity Place, and on the north, in part, by unopened Warrington Avenue.

6. The Applicant proposes to expand the existing building and provide additional off street parking.

7. Trinity Place appears as a street on a plan of lots recorded more than 70 years ago, but was never opened or accepted as a public street.

8. Applicant recently recorded a deed describing its property as extending to the centerline of unopened Trinity Place.

9. The proposed off street parking spaces along and within unopened Trinity Place will extend to a distance of approximately 4 feet, 8 inches from the property line.

10. Other than Applicant, no one testified in favor of or in opposition to the requested relief.

CONCLUSIONS OF LAW

1. Under Sections 220-266 and 220-269(B)(5) and (C) of the Codified Ordinances, the Zoning Hearing Board has jurisdiction to hear and decide a request for a variance.

2. Section 220-242(L)(2)(b) requires parking spaces to be set back at least five feet from any lot line.

3. The encroachment of four inches into the required setback constitutes a *de minimus* encroachment.

DECISION

Based upon the foregoing findings and conclusions, and in consideration of the testimony and evidence presented to the Board, it is the decision of the Board that the Applicant's request for a variance be and is hereby granted as a de minimus variance, subject to the condition that the Applicant shall maintain strict conformance with the testimony, plans and evidence presented to the Board. The Board has no power or authority to adversely affect any private rights in unopened Trinity Place, and does not purport, by this decision, to do so.

LOWER ALLEN TOWNSHIP ZONING
HEARING BOARD

Dated:

5-27-2019





Solicitor