

IN THE MATTER OF : BEFORE THE LOWER ALLEN TOWNSHIP  
THE APPLICATION OF : ZONING HEARING BOARD  
CHRISTOPHER KUNES, et al : CUMBERLAND COUNTY, PENNSYLVANIA  
:  
: DOCKET NO. 2021-04

## **DECISION DENYING SPECIAL EXCEPTION RELIEF**

The Applicant seeks a special exception to reduce the number of off-street parking spaces required for restaurant uses and to reduce the drive-through service facility stacking distance. A hearing was held before the Board on May 20, 2021.

### **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 Christopher Kunes, et al, 2695 Carolean Industrial Drive, State College, PA 16801.

3. The subject property is a parcel of land in a C-1 zoning district, known as 1120 Carlisle Road.

4. The subject property is owned by First National Bank of Pennsylvania. The Applicant has an equitable interest through an executory agreement of sale.

5. The subject property is approximately 3 acres in area, and improved with two commercial buildings and associated parking and access drives. One building is occupied by a CVS Pharmacy, and the other is vacant, having most recently been occupied by a bank.

6. The subject property is part of a condominium project.

7. The Applicant proposes to lease the vacant building, which contains 3,800 square feet, to two restaurant businesses which will operate fast food restaurants.

8. One restaurant will seat a maximum of 40 people, and have a pick-up window accessible by automobile. The other will seat a maximum of 30 people.

9. The Applicant proposes to provide a combined total of 35 off-street parking spaces for the restaurant uses, and a stacking distance for 7 vehicles at the pick-up window.

10. The Applicant provided no parking data or parking study results, but believes 35 spaces will be adequate.

11. Joseph Swartz, a township resident, expressed concern about pedestrian and traffic safety.

#### **CONCLUSIONS OF LAW**

1. The Board's jurisdictional authority to decide a request

for a special exception is provided in Sections 220-269(B)(6) and (D) of the Codified Ordinances.

2. The Codified Ordinances require a combined total of 125 off-street parking spaces for the restaurant uses, and a stacking distance of 10 vehicles for the pick-up window.

3. Under Section 241, the Board may authorize, by special exception, a reduction in the number of required off-street parking spaces and stacking distance requirements if the applicant can adequately provide parking and stacking distances for all uses.

4. To establish entitlement to a special exception, the Applicant must satisfy the requirements of sections 220-241 and demonstrate compliance with all applicable provisions of section 220-269(D) of the Codified Ordinances.

5. The Applicant presented inadequate information to establish to the Board's satisfaction that the reduced number of off-street parking spaces will be adequate, and therefore did not satisfy all of the standards and criteria for a special exception.

6. Under the circumstances, granting a special exception would be detrimental to the public health, safety or welfare.

### **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 special exception relief be and is hereby denied.

LOWER ALLEN TOWNSHIP ZONING  
HEARING BOARD

Date:

6.2.2021

Ann Moran

L. Ann

Solicitor