

IN THE MATTER OF THE : BEFORE THE LOWER ALLEN TOWNSHIP  
APPLICATION OF : ZONING HEARING BOARD  
 : CUMBERLAND COUNTY, PENNSYLVANIA  
ROBERT THIEMANN AND :  
STEPHANIE THIEMANN : DOCKET NO. 2021-05

### DECISION GRANTING A SPECIAL EXCEPTION

The Applicants seeks a special exception to establish a beauty salon as a home occupation, with a sign. A hearing was held before the Board on June 17, 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 Applicants are Robert Thiemann and Stephanie Thiemann, who reside at 516 Third Street, New Cumberland, PA 17070.

3. The Applicants are the equitable owners of the subject property, which is located in an R-2 zoning district.

4. The record owners of the subject property are William Holjes and Kristen Holjes.

5. The subject property is an unimproved lot containing 4 acres, bounded on the south by the Pennsylvania Turnpike and on

the north by the Yellow Breeches Creek. It is known as Lot 2 on a subdivision plan recorded at Plan Book 93, Page 83A. Access to Sheepford Road is provided by easement.

6. The Applicants wish to erect a single family detached dwelling on the subject property and establish therein a beauty salon as a home occupation. They do not intend to close on the purchase of the property if the special exception is not granted.

7. The salon will operate two days a week, with Stephanie Thiemann as the operator. She will not have any employees.

8. Stephanie Thiemann has been in business for many years, and her customer base is established. She will comply with the licensing requirements of Pennsylvania statutes and regulations.

9. The Applicants propose to erect a sign, approximately eight inches by ten inches, on the dwelling.

10. The Applicants committed to comply with the square footage limitations, off-street parking, and all other requirements of the codified ordinances governing the special exception.

11. During the hearing, the Applicants verbally requested that the Board extend the expiration of the special exception for a period of one year.

12. William J. Page, Jr. and Preston E. Ward testified that the subject property is bound by restrictions on the use of the

access easement established under a recorded Declaration and Indenture of Easement.

#### **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. Because Applicants will have customers come to the residence, their proposed salon is not a "no impact home-based business", and can be established only by special exception under section 220-165(B) of the Codified Ordinances.

3. To establish such a special exception, the Applicants must satisfy the requirements of section 220-165(B), and demonstrate compliance with all applicable provisions of sections 220-165(A) and 220-269(D) of the Codified Ordinances.

4. The Applicants have established that they can and will comply with all of the standards and criteria for the requested special exception.

5. The proposed special exception will not be detrimental to the public health, safety or welfare.

### DISCUSSION

The Board acknowledges that this special exception will expire if the Applicants do not obtain a zoning permit within twelve months, unless expiration is extended by a period of one year. Applicants have requested a one year extension because they have not yet obtained record legal title to the property and because they do not want to start construction until the cost of building materials declines. The Board respectfully declines to extend the expiration in advance, but will consider a written request for extension filed within twelve months of the date of this decision.

The Board also acknowledges that there may be private use restrictions governing the access easement which could affect the Applicants' operation of a salon on the subject property. The Board has no legal authority to enforce, modify or nullify any such restrictions, and does not, by approving this application, purport to do so. The applicability, effect and enforcement of private use restrictions is a matter between and among the parties bound by such restrictions.

### DECISION

Based upon the foregoing findings and conclusions, and in consideration of the testimony and evidence presented to the

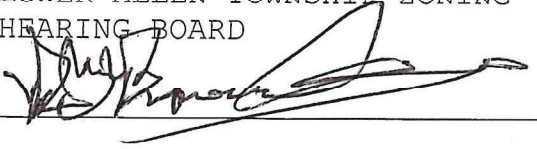
Board, it is the decision of the Board that Applicants' request for a special exception be and is approved, subject to the following conditions:

1. Applicants shall not operate the salon unless and until (a) they comply with all requirements for the special exception and all applicable laws, regulations, township codes and ordinances, and (b) they provide to the Board written confirmation from the township that the completed project complies with all requirements for the special exception and all applicable township codes and ordinances, and that the Applicants have secured all necessary approvals and permits.

2. Applicant shall maintain strict conformance with the testimony, evidence and plans submitted to the Board.

Dated: 6.29.2021

LOWER ALLEN TOWNSHIP ZONING  
HEARING BOARD

  
Solicitor