

**LOWER ALLEN  
ZONING HEARING BOARD**

IN THE MATTER OF:      1713 Hummel Avenue  
                                 Zone: Industrial Commercial District (I-3)  
                                 Applicant/Owner: Osama Elfeky  
                                 Application No. 2025-04

REQUEST FOR:            **SPECIAL EXCEPTIONS FOR RELIEF FROM OFF-STREET PARKING REQUIREMENTS, PARKING AREA LOCATION AND DESIGN REQUIREMENTS, AND MOTOR VEHICLE ACCESS, AND MULTIPLE VARIANCES FROM FRONT SIDE AND REAR YARD SETBACKS ON THE PROPERTY**

BEFORE:                    Bonneville, Vice-Chair  
                                 Massott, Member  
                                 Migala, Participating Alternate

**DECISION**

Applicant filed an application for multiple special exceptions for zoning relief from the off-street parking requirements (Sections 220-239 and 220-241), the parking area location and design requirements (Section 220-242) and motor vehicle access requirements (Section 22-244) of the Lower Allen Township Zoning Ordinance (Zoning Ordinance), and multiple variances from the front, side and rear yard setback requirements (Section 220-102) of the Zoning Ordinance. The zoning relief requests apply to the property located at 1713 Hummel Ave. Camp Hill (property). The Lower Allen Township Zoning Hearing Board (Board) considered and decided Applicant's zoning relief requests at a hearing held on November 20, 2025.

**EXHIBITS**

B-1 Certificate of Service of Public Notice and Written Notice of Hearing

B-2 Application packet including narrative, and sketch plan of parking lot

A-1 E-mail from applicant requesting continuance of the October 16, 2025 hearing.

A-2 E-mails from applicant dated November 20, 2025 requesting continuance of the November 20, 2025 hearing.

### **FINDINGS OF FACT**

1. On or about September 12, 2025, Osama Elfeky (Applicant) filed an application for multiple special exceptions and variances for zoning relief to establish a work camp use with nine (9) one bedroom units within the two-story structure on the property located at 1713 Hummel Avenue, Mechanicsburg (property) in the Industrial Commercial (I-3) Zoning District.
2. Public notice of the hearing on the application was published in the Patriot News on September 30, 2025, and October 7, 2025. Notice of the hearing was placed on Applicant's property on October 1, 2025 and posted at the Lower Allen Township Municipal Building and on Township's website on October 2, 2025.
3. Notice of the hearing was mailed to Applicant and adjoining property owners on October 2, 2025.
4. No objections as to the method and timing of notice and advertising were raised.
5. No objections as to any of the exhibits submitted into the record at the hearing were raised.
6. The Applicant has standing to pursue the zoning relief requested as it is the owner of the property.
7. The initial hearing on the application on October 16, 2025 was continued at applicant's request, with Board approval, until the November 20, 2025 hearing.
8. Applicant submitted a request for a continuance of the November 20, 2025 hearing by three (3) separate e-mails dated November 20, 2025 that were sent at approximately 3:00 p.m.

9. The three (3) e-mails included two (2) requests for a continuance for varying reasons; (1) applicant made a mistake and forgot the hearing was on November 20, 2025; and (2) applicant had an unspecified emergency<sup>1</sup>.

10. Testimony at the hearing was taken from Marcus Brandt, the Lower Allen Township Zoning Administrator pertaining to the continuance request. Applicant was not present at the November 20, 2025 hearing.

11. Mr. Brandt testified that he had not received any telephone calls, e-mails or other forms of communication from applicant between the October 16, 2025 hearing and the November 20, 2025 hearing.

12. The Board considered and denied applicant's request for a continuance of the November 20, 2025 hearing.

13. The Board finds that applicant is not credible based on the varying reasons for his continuance requests.

14. Applicant proposed to establish a work camp use within the two-story structure on the property.

15. The project consisted of constructing and/or renovating the building into nine (9) one-bedroom units to house workers of applicant's fiber optics business.

16. Applicant's initial proposal was to create four (4) one-bedroom units on the first floor of the building, and a three bedroom unit on the second floor along with office space for applicant's business.

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<sup>1</sup> The third e-mail did not specifically request a continuance but stated that applicant made a mistake and thought the hearing was scheduled for the following Thursday; which would have been Thanksgiving, and that he was out of the country.

17. The proposal changed prior to the October 16, 2025 hearing to five one-bedroom units on the second floor, with the first floor plan remaining unchanged.

18. Applicant submitted the requests for variances from the front, side and rear yard setbacks due to construction of living spaces on the property in the I-3 District. (See Ex. B-1)

19. The initial proposal required nine (9) off-street parking spaces on-site (one space per unit and 0.2 spaces per unit for guest parking) and the second proposal requires eleven (11) off-street parking spaces<sup>2</sup>. Section 220-239

20. Applicant submitted a basic sketch plan of the proposed parking on the property with his application for zoning relief. (Ex. B-2)

21. The Township Zoning Administrator determined that the plan lacked sufficient detail and did not comply with Article XXIV (Off-Street Parking) of the Zoning Ordinance.

### **CONCLUSIONS OF LAW**

1. The Lower Allen Township Zoning Hearing Board has jurisdiction to hear the above-captioned application for multiple special exceptions and variances pursuant to Section 220-269(B)(5) & (6) of the Lower Allen Township Zoning Ordinance and 53 P.S. and 10909.1(a)(5) & (6) of the Pennsylvania Municipalities Planning Code.

2. Proper notice of the hearing was given to the applicant, the public and to all interested parties.

3. Exhibits B-1, B-2, A-1 and A-2 were properly admitted into evidence.

4. The Board properly exercised its discretion in considering and denying applicant's request for a continuance of the November 20, 2025 hearing.

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<sup>2</sup> Nine (9) spaces for the nine (9) units and two (2) spaces for guest parking –  $0.2 \times 9 = 1.8$ . Fractions are considered one. Section 220-242(g)

5. Applicant has failed to sustain his burden of proof for the requested special exceptions in accordance with the attached discussion and decision

6. Applicant has failed to sustain his burden of proof for the requested variances to the Township Zoning Ordinance in accordance with the attached discussion and decision.

### **DISCUSSION**

The property is located in the Industrial Commercial (I-3) Zoning District which is regulated by Article 14 of Chapter 220 – Lower Allen Township Zoning Ordinance (Ordinance). Applicant is proposing to establish a work camp use on the property and construct/renovate the two-story structure on the property into nine (9) one-bedroom units to house applicant's workers of his fiber optics business.

### **CONTINUANCE REQUEST**

Applicant requested a continuance of the November 20, 2025 hearing by e-mail at approximately 3:00 p.m. on November 20, 2025. Applicant requested a continuance of the first hearing on the application on October 16, 2025, which was granted by the Board despite the request being made in the late afternoon on October 16, 2025. See Ex. A-1. Applicant's continuance request of the November hearing consisted of three separate e-mails, that contained two requests for a continuance for varying reasons; (1) applicant made a mistake and thought the hearing was scheduled the following Thursday (which would be Thanksgiving); and (2) applicant had an unspecified emergency<sup>3</sup>. (See Ex. A-2)

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<sup>3</sup> The third e-mail sent by applicant, which happened to be the first e-mail sent, did not specifically request a continuance, but stated that applicant had made a mistake and thought the hearing was scheduled on the following Thursday (Thanksgiving), and that he was out of the country.

The Board has the discretion to grant or deny a continuance request. *Price v. Pennsylvania Board of Probation and Parole*, 781 A.2d 212, 216 (Pa. Commw. 2001) The Board finds the applicant not credible based on the timing and varying reasons for the request for the continuance. Applicant was granted a continuance of the initial hearing scheduled for October 16, 2025. Applicant had not contacted the Township between the first hearing on October 16, 2025 and the November 20, 2025 hearing. Based on the foregoing, the Board decided to deny applicant's request for a continuance of the November 20, 2025 hearing.

### **SPECIAL EXCEPTION**

The Ordinance provides the off-street parking requirements for each use. Section 220-239(A) A multifamily structure with nine (9) one-bedroom units requires one (1) space per unit, and 0.2 spaces per unit for guest parking. This equates to eleven (11) required off-street parking spaces for the nine (9) one-bedroom units within the building on the property (9 spaces +1.8 spaces for guest parking)<sup>4</sup>.

Applicant submitted a very rough sketch plan of the proposed off-street parking on the property. The Zoning Administrator determined that the plan lacked sufficient detail and failed to comply with the off-street parking requirements of Article XXIV of the Township Zoning Ordinance. Specifically, the plan failed to comply with the number of required off-street parking spaces (Section 220-239), the parking area location and design requirements (Section 220-242) and the motor vehicle access requirements (Section 220-244). Applicant needed several special exceptions for zoning relief from the aforementioned off-street parking requirements.

The Zoning Ordinance provides the following requirements for a special exception:

**D. Special exceptions.** In this chapter, special exceptions may be granted or denied by the Zoning Hearing Board pursuant to expressed standards and criteria contained in this chapter. The

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<sup>4</sup> When the computation of spaces results in a fraction, all fractions are to be counted as one. Section 220-242(g)

Zoning Hearing Board shall hear and decide requests for such special exceptions in accordance with such standards and criteria and prescribe the application form to be used. The Board may grant approval of a special exception, provided that the applicant complies with the following standards and that the proposed special exception shall not be detrimental to the health, safety or welfare of the neighborhood. The burden of proof shall rest with the applicant.

- (1) The applicant shall establish, by credible evidence, compliance with all conditions on the special exception contained within this chapter which give the applicant the right to seek the special exception.
- (2) The applicant shall establish, by credible evidence, that the proposed special exception shall be properly serviced by all existing public service systems. The peak traffic and parking demands generated by the subject of the application shall be accommodated in a safe and efficient manner or improvements shall be made in order to effect the same. Similar responsibilities shall be assumed with respect to other public service systems, including, but not limited to police protection, fire protection, utilities, and parks and recreational facilities.
- (3) The applicant shall establish, by credible evidence, that the proposed special exception shall be in and of itself properly designed with regard to internal circulation, parking, buffering and all other elements of proper design as specified in this chapter and any other governing law or regulation.
- (4) The applicant shall provide the Board with sufficient plans, studies or other data to demonstrate compliance with all applicable regulations.
- (5) For uses, structures or any development within the overlay Floodway (FW) and Flood Fringe (FF) Districts, the applicant shall present evidence of the effect of the use, structure or development on flood levels, flood frequencies and velocities; the susceptibility of the use, structure or development to flood damage; the availability of emergency access to the use, structure or development in times of flood; the necessity of the use, structure or development to be located near the floodplain; and the compliance with the requirement that the use, structure or development will not be located in the floodplain if the use, structure or development increases the base flood elevation.

- (6) The applicant shall inform the Board whether any structures on the property are listed upon the National Register of Historic Places or any other registry of historic structures.
- (7) The proposed special exception shall not substantially injure or detract from the use of neighboring property or from the character of the neighborhood and the use of property adjacent to the area included in the special exception application shall be adequately safeguarded.

Lower Allen Township Zoning Ordinance, Section 220-269.

Applicant has the burden of proof to submit evidence in support of the special exception requests, but failed to appear at the November 20, 2025 hearing. His request for a continuance from the November 20, 2025 hearing was denied by the Board.

We find that the applicant has failed to sustain his burden of proof for the requested special exceptions due to his failure to appear before the Board and present evidence in support of his application.

### **VARIANCE**

Applicant seeks variances from the front, side and rear yard setbacks to construct and/or renovate the structure to house applicant's workers. The front, side, and rear yard setbacks in the I-3 Zoning District are 30 ft. 10 ft. and 35 ft. respectively. Section 220-102(a) Applicant did not present any plans for the project, nor did he state the amount of variance he needed from the setback requirements in the I-3 Zoning District. In reviewing the application requesting multiple variances, the Zoning Hearing Board must take into account the criteria set forth in Section 220-269 of the Township Zoning Ordinance which states the following;

**C. Variances.** The Zoning Hearing Board shall hear requests for variances where it is alleged that the provisions of this chapter inflict unnecessary hardship upon the applicant. The Zoning Hearing Board may, by rule, prescribe the form of application and may require application to the Zoning Officer. The Zoning Hearing



Board may grant a variance, provided that the following findings are made where relevant in a given case:

- (1) That there are unique physical circumstances or conditions, including irregularity, narrowness or shallowness of lot size or shape or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of this chapter in the district in which the property is located.
- (2) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this chapter and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
- (3) That such unnecessary hardship has not been created by the appellant.
- (4) That the variance, if authorized, will not alter the essential character of the district in which the property is located nor substantially or permanently impair the appropriate use or development of adjacent property nor be detrimental to the public welfare.
- (5) That the variance, if authorized, will represent the minimum variance that will afford relief and represent the least modification possible of the regulation in issue. In granting any variance, the Zoning Hearing Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this chapter.

Lower Allen Township Zoning Ordinance, Section 220-269.

Common law distinguishes between a dimensional variance and a use variance. A use variance applicant requests to use the property in a manner prohibited by the zoning regulation. *Hertzberg v. Zoning Bd. of Adjustment*, 721 A.2d at 47. A dimensional variance allows for the reasonable adjustment of the zoning regulation in order to utilize the property as desired. *Dunn v. Middletown Twp. Zoning Hearing Bd.*, 143 A.3d 494, 501 (Pa. Commw. 2016).

The proposed work camp use is a permitted use in the I-3 Zoning District. Applicant's requests for zoning relief from the setback requirements are categorized as dimensional variances. When considering a dimensional variance for purposes of determining unnecessary hardship, a Zoning Hearing Board is able to consider multiple factors not applicable to the use variance test, such as the financial hardship created by any work necessary to bring the property into strict compliance with the ordinance and the characteristics of the surrounding neighborhood. *Soc'y Created to Reduce Urban Blight v. Zoning Bd. of Adjustment*, 771 A.2d 874, 877 (Pa. Commw. 2001). A dimensional variance therefore compels a slightly lowered standard from a use variance, but must still address the aforementioned factors, including the showing of an unnecessary hardship. *Tri-Cnty. Landfill, Inc. v. Pine Twp. Zoning Hearing Bd.*, 83 A.3d 488, 520 (Pa. Commw. 2014).

Similar to the special exceptions application, applicant has the burden of proof to present evidence in support of his variance requests. Applicant failed to appear at the November 20, 2025 hearing to present his case to the Board, and failed to submit any evidence in support of his variance application.

We find that applicant has failed to sustain his burden of proof for the requested variances from the front, side and rear yard setbacks in the I-3 Zoning District.

**ORDER**

In accordance with the above discussion, applicant's requests for Special Exceptions for relief from off-street parking requirements (Section 220-239 and 220-241), the parking area location and design requirements (Section 220-242), and the motor vehicle access requirements (Section 220-244) are denied.

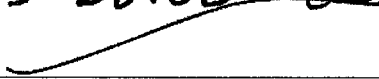
Applicant's request for Variances from the front, side, and rear yard setbacks on the property located in the I-3 Zoning District (Section 220-102(a)) is denied.

This order applies to the property located at 1713 Hummel Avenue, Camp Hill, PA.

**LOWER ALLEN TOWNSHIP ZONING HEARING BOARD**



Date: 12/02/2025

By:   
Richard Bonneville, Acting Chair

*Any parties that are aggrieved by this Decision may appeal same within thirty (30) days to the Court of Common Pleas of Cumberland County, PA*