

Daniel C. Van Wyk, Esquire
Attorney at Law
3148 Booth Drive, Garnet Valley, PA 19060-2011
daniel.vanwyk.esq@gmail.com
(610) 235-7983

Donald Weiss, Esq.
6 Dickinson Drive, Suite 110
Chadds Ford, PA 19317

RE: Application of Concheater Holdings, No. 2023-06
Premises: 1420 Concheater Highway
Bethel Township, PA

Dear Don:

Enclosed please find Zoning Hearing Board decision letter, together with the Findings of Facts and Conclusion of Law regarding the above captioned matter, which approved your application for a variance request at its hearing on June 23, 2023.

Very truly yours,


DANIEL C. VAN WYK

Concheater
use hearing
FOFCL
July 10, 2023
7/10/23

BETHEL TOWNSHIP ZONING HEARING BOARD WRITTEN DECISION

IN RE: Application of Conchester Holding LLC :
1420 Conchester Highway : Appeal 2023-06
Bethel Township :
To the Zoning Hearing Board Bethel Township :

Premises: 1420 Conchester Highway, Garnet Valley, Pennsylvania 19060.

The Zoning Hearing Board of Bethel Township held public hearings on the above application, pursuant to public notice, on April 26, May 24, and June 28, 2023. The Board APPROVED the application and Appeal from the Bethel Township Zoning Officer's Notice with conditions on June 28, 2023 after reviewing the information provided at the hearing. The conditions for approval are: Comply with all township codes and ordinances. Comply with all state regulations and requirements for a day care facility are met. Hours will be no greater than 7AM – 6PM. Fencing enclosing the playground will be 6 foot high PVC privacy fence. Public/City water will be utilized.

The Board in reaching its decision, found the following Findings of Fact:

1. Members of the Zoning Hearing Board present at the hearing were Garry Lanahan, Chairman, Doug Moser Vice Chair, and Mike Lamia, Alternate Member.
2. Proof of Publication and posting was made on the property, and neighboring property owners were notified. A site plan of the property was presented.
3. Applicant is requesting a variance from Section 1201.3.F. (Special Exception for use as a Children Day care center).
4. The property is located in the C-2 Commercial, pursuant to Article XII of the Bethel Township Zoning Ordinance.
5. Bethel Zoning Code Section 218 Variances allows variances to be granted by the Board pursuant to express standards and criteria. The Board may attach reasonable conditions and safeguards as deemed necessary to implement the purpose of the Zoning Ordinance.
6. The applicants testified that they would like to operate a Child Day Care Center in this location which is in the C-2 District. This type of business is permitted as a Special Exception. Thus the need to appear before the Board.

Conclusions of Law:

7. The Applicant has standing to appear before the Zoning Hearing Board to request

a variance.

8. The only issue before the Zoning Hearing Board was whether the requested special exception should be granted.
9. Pursuant to Chapter 30, Article IX of the Municipalities Planning Code (MPC) the Zoning Hearing Board has the power to hear and decide requests for variances from the terms of the zoning law as will not be contrary to the public interest where literal construction and application of the law would result in an unnecessary hardship. (See MPC, 53 P.S. § 10910.2)
10. The Board has reviewed and considered these factors and finds and concludes that the Applicant has presented credible and substantial evidence justifying the grant of the variance.

Discussion:

11. The issue presented to the Board is whether the Applicant is entitled to the requested special exception asking for relief from 1201.3.F. to allow operation of a child day care center in C-2 zone.
12. Over three hearings, the Applicant presented evidence to the concept and hours of operation, number of children that could be allowed on site, safety measures, number of children allowed in the outside playground area, parking, lighting, the ratio of workers to children, along with the number of people expected to work there.
13. Applicant and the proposed operators of the day care center testified as to a number of possible issues related to operating a day care center at the proposed facility.
14. Applicant modified their plans to assure the Board that all regulations regarding day care operation would be met along with Township ordinances compliance.
15. Where an applicant is seeking a use variance, he must show, in addition to an unnecessary hardship, that the proposed use will not be contrary to the public interest.
16. The Board has reviewed and considered these factors and finds and concludes that the Applicant did provide credible and substantial evidence justifying the grant of the variance.

ZONING HEARING BOARD BETHEL TOWNSHIP

Garry Lanahan, Chair
Doug Moser, Vice Chair
Mike Lamia, Alternate Member