

**BEFORE THE DERRY TOWNSHIP ZONING HEARING BOARD**

IN THE MATTER OF: : NO. 2021 – 09  
:   
Loto Station, LLC d/b/a :   
The Englewood :   
:   
: PREMISES LOCATION:   
: 1219 Research Boulevard   
: Hummelstown, Derry Township, PA

**MEMORANDUM, FINDINGS, OPINION AND ORDER**

This is the application of Loto Station, LLC d/b/a The Englewood with regard to the property located at 1219 Research Boulevard, Hummelstown, Derry Township, which is owned by the Hershey Trust Company. A hearing in this matter was held on September 15, 2021, after proper advertising. At that time, Richard Russell, the owner of the applicant, appeared, was sworn, and testified at the hearing.

The application indicates that the subject property is located in the Planned Campus West and O-7 Planned Campus West Future Development Area Overlay zoning districts. The property is improved with a restaurant, brewery, and music venue, and the applicant proposes to continue that use. The application seeks a variance to install an interior illuminated sign.

Mr. Russell testified that the subject property is part of a larger condominium parcel with multiple buildings. The parcel is hilly in the northwest corner. As a result, it is difficult for vehicles to see the applicant’s building until the vehicles are at the building. According to Mr. Russell, UGro is right in front of the applicant’s building so it is difficult for vehicular traffic to see the building in enough time for vehicles to safely take the exit ramp off 322. The applicant

has a leasehold interest in the property so none of the hardships were created by the applicant, and all were pre-existing the applicant's occupancy of the property.

The applicant proposes to install a 54 inch round sign on the porte-cochere. The sign will have an "E" in the middle, surrounded by a circle. The "E" and circle surrounding the "E" will be illuminated, but the whole sign will not be illuminated. While external lighting of the sign is permitted under the Ordinance, internal lighting would result in a better looking sign. This is the only sign on the building. The allowable signage under the Ordinance has to be shared with the other condominiums. Mr. Russell noted that other signs in the area, including UGro's, are internally illuminated. He argued that internal illumination would not look substantially different than external illumination, which is permitted. Further, according to Mr. Russell, there would be less light with internal illumination because external illumination would require lights from the top and bottom. No members of the public testified during the hearing of this matter.

The Ordinance requires external illumination for a canopy sign. *See* Ordinance, §225-401.4.F, Table 36. The criteria for issuing zoning variances are set forth in §225-1007.9.A of the Derry Township Zoning Ordinance. The Zoning Board may grant a variance provided that all of the following findings are made where relevant:

1. There are unique physical circumstances or conditions of the lot in question, and due to these conditions, an unnecessary hardship results to the property owner;
2. That because of the physical circumstances, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance,

and that the authorization of the variance is necessary to enable the reasonable use of the property;

3. The unnecessary hardship has not been created by the applicant;
4. The variance will not alter the essential character of the neighborhood or otherwise impair the appropriate use or development of adjacent property or be detrimental to the public welfare; and
5. That the variance if authorized will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation at issue.

In this matter, the Board finds that the applicant is entitled to the requested relief.

Initially, the Board finds that the property is unique because of its hilly topography. There is no evidence on the record that the applicant created this hardship. Most significantly, the Board finds that the proposed relief will not have a detrimental impact on any other property in the area or the public welfare. The Board finds that the proposed relief will not alter the essential character of the neighborhood. There is no testimony in the record to indicate that the requested variance would negatively impact surrounding properties. No neighbors testified in opposition to the application. Finally, the Board finds that this represents minimum relief necessary.

In granting any variance, the Zoning Hearing Board may attach such reasonable conditions and safeguards as it deems necessary to implement the purposes of the Pennsylvania Municipalities Planning Code, and the Ordinance. *See* Ordinance, §225-1007.9.B. Based on the Board's findings and conclusions, the Board adopts the following:

**ORDER**

AND NOW, this 20<sup>th</sup> day of October, 2021:

1. The applicant’s request for a variance from §225-401.4.F, Table 36 regarding illumination of the canopy sign is GRANTED. The applicant may install the interior illuminated canopy sign.


2. The applicant shall construct the improvements in strict compliance with the plans and specifications submitted to the Board during the hearing of this matter, provided, however, that if the improvements that are the subject of this hearing, as finally constructed, require less relief than granted by the Board herein, no additional relief from this Board shall be required.


3. Except as extended by applicable law, the relief granted herein shall be valid for one (1) year from the date hereof. In the event the applicant has not, within the time period provided herein, commenced operations, applied for a building permit relative to the improvements where permits are necessary, or constructed the improvements not requiring permits, the relief granted herein shall be deemed to have expired, and the applicant shall be required to comply with the then existing terms of the Zoning Ordinance.

4. Any violation of any condition imposed herein shall be a violation of the Township Zoning Ordinance and shall be enforced as provided in the Ordinance.

  
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Steven Seidl

  
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Sandra Ballard

  
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F. Dean Morgan

  
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Lindsay Drew