

**BEFORE THE DERRY TOWNSHIP ZONING HEARING BOARD**

IN THE MATTER OF: : NO. 2024 - 06  
Michael Angello :  
: :  
: :  
: PREMISES LOCATION:  
: BHA Enterprises LLC  
: Hershey, Derry Township, PA

**MEMORANDUM, FINDINGS, OPINION AND ORDER**

This is the application of Michael Angello with regard to the property owned by BHA Enterprises LLC located at 20 Linden Road, Hershey, Derry Township. A hearing in this matter was held on April 17, 2024, after proper advertising. At that time, the applicant appeared, was sworn, and testified at the hearing. Prior to the applicant’s testimony, Board Member William Tafuto disclosed that he was a partner with the applicant in various business ventures, but could be impartial in this zoning matter. In addition, Solicitor Megan Huff disclosed that her firm represented the applicant on unrelated matters, and as such, no conflict exists. No members from the public testified at the hearing. Zoning relief was previously granted for the subject property for nine on-street parking spaces for office use.

The application indicates that the subject property is located in the Hershey Mixed Use and the Downtown Core Overlay 9.2 zoning districts. The property is improved with a commercial building with office space, and the applicant wishes to use a portion of the existing office space for an esthetician and massage therapist. The application seeks a variance from the off-street parking requirements.

The lot is 1,347 square feet and contains no off-street parking. The 2-story building was built in 1950, and the applicant, through his LLC, purchased the property in 2016. There are four small offices on the upper floor, which is above grade. Each office is approximately 200 square feet with a common area of approximately 200 square feet, for a total of approximately 1,000 square feet. Currently, the upper level is occupied as one-half office of approximately 400 square feet, and an eyelash service provider of approximately 400 square feet. The lower level, which is below grade, is divided into two larger offices of approximately 500 square feet each, for a total of approximately 1,000 square feet. The applicant occupies the lower level as his office, but due to changes in his business, he is downsizing to occupy only 500 square feet. He wishes to rent the remaining 500 square feet of space on the lower level to an esthetician and massage therapist. This prospective tenant has a location in Elizabethtown but wants to relocate to Hershey.

According to the applicant, the actual utilized on-street parking for the property is as follows: (i) two spaces for the upper level office, which is Thrivent that operates only on Fridays from 9 a.m. to 2 p.m. and typically sees one client that day; (ii) two spaces for the eyelash service provider who schedules one-hour appointments with breaks of 20 to 30 minutes in between appointments; (iii) one space for the applicant's office that operates only on Tuesdays and Thursdays from 10 a.m. to noon; and (iv) two spaces for the prospective new tenant who would schedule one-hour appointments with breaks of 20 to 30 minutes in between appointments. Therefore, the applicant argued that seven on-street parking spaces are necessary if all of the tenants are in the building at the same time. Nine on-street parking spaces are authorized. With the reduced parking ratios required under the Ordinance, two off-street parking spaces are required

under the Ordinance for the proposed uses on the property. The applicant argued that there are existing surrounding commercial properties so that the proposed use and related parking would not change the character of the neighborhood.

The Ordinance provides that parking ratios may be reduced in the Downtown Core Overlay by 20% for any lot containing a lot area of 7,500 square feet or less and containing a nonresidential use. *See* Derry Township Zoning Ordinance, §225-401.1.I.3.b. 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, creating an unnecessary hardship, because the building


and sidewalk comprise the entire property. There is no evidence on the record that the applicant created the hardship. 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. Other surrounding properties do not have off-street parking. There is no testimony in the record to indicate that the requested variance would negatively impact the surrounding properties. Finally, the Board finds that this represents the 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. *Ordinance*, §225-1007.9.B. Based on the Board’s findings and conclusions, the Board adopts the following:

**ORDER**

AND NOW, this 15 day of May, 2024:

1. The applicant’s request for a variance from §225-401.1.I.3.b., regarding the required off-street parking is GRANTED. The two spaces required for off-street parking are hereby waived for the esthetician and massage therapist.
2. 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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Thomas DeDonatis

  
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William Tafuto