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**PROVIDENCE TOWNSHIP  
ZONING HEARING BOARD**

**IN RE:** )  
 )  
**APPLICATION OF** )  
**QUARRY RIDGE PROPERTIES, LLC** )

**I. BACKGROUND**

1. The applicant is Quarry Ridge Properties, LLC, 2147 White Oak Road, Strasburg, PA 17579 (hereinafter referred to as the “**APPLICANT**”).

2. The property at issue is owned by the **APPLICANT** and is located at 288 Hollow Road, New Providence, PA 17560 (hereinafter referred to as the “**PREMISES**”).

3. The **PREMISES** is located entirely within the Agricultural District of Providence Township pursuant to the Providence Township Zoning Ordinance (hereinafter referred to as the “**ORDINANCE**”).

5. The **APPLICANT** has requested a special exception pursuant to Sections 200.4.1 and 401 and/or a variance from the requirements of Section 200.2 of the **ORDINANCE** to establish a contracting business at the **PREMISES**.

6. A hearing on this Application was held on March 10, 2015, at the Providence Township Municipal Building, 200 Mount Air Road, New Providence, PA 17560, before Zoning Hearing Board members, Ralph L. Dubree, James D. Hess and Bradford Duvall.

7. Constance Peiffer, Providence Township Zoning Officer, appeared at the hearing and testified that notice of the hearing had been duly published, posted and mailed to all property owners entitled to receive Notice in accordance with the Pennsylvania Municipalities Planning Code.

8. Samuel Blank, one of the owners, appeared and testified on behalf of the Application. Additionally, several neighbors testified in regard to the Application, including James E. Vanlenten and Melissa Biddle, appeared at the hearing and testified in opposition of the Application. David Gerhart also presented a letter dated March 5, 2015 to the Zoning Hearing Board expressing his concerns about the Application.

## **II. FINDINGS OF FACT**

1. The **PREMISES** contains approximately 1.16 acres. A pole barn measuring approximately 60' x 105' is located on the **PREMISES**. The pole barn has three overhead garage doors. The **PREMISES** was previously used as a truck repair garage and was owned by Ronald O. Wilburn who lived across the street from the **PREMISES**. The **PREMISES** was sold separately from the other property located across the street owned by Mr. Wilburn.

2. A tree line has been established to the rear of the **PREMISES** and to the north of the **PREMISES** along the side lot line. A farm is located to the rear of the **PREMISES**. Residential properties are located on either side of the **PREMISES** and across the road from the **PREMISES**.

3. The **APPLICANT** operates a carpentry business on the **PREMISES** and primarily remodels homes.

4. The **APPLICANT** has six owners who are Amish and two employees who are drivers for the owners of the business.

5. The **APPLICANT** intends to use the pole barn to store two trucks and a trailer. The **APPLICANT** will also use the pole barn to store tools, lumber and other equipment.

6. The **APPLICANT** has a six-yard dumpster which is covered and which is picked up weekly by Cauler Container.

7. There will not be any outdoor storage in connection with the business.
8. The **APPLICANT** will request a sign indicating the location of the business for deliveries.
9. The deliveries are made by straight trucks and not by tractor trailers.
10. The only vehicles that will be parked outside of the building are the employees' vehicles.
11. The employees meet at the **PREMISES** and then drive to the various job sites. The owners and employees then return at the end of the work day and are then driven to their homes. There will be no vehicles parked overnight at the **PREMISES**. The **APPLICANT** has agreed to give consideration to the neighboring residential property owners and will only idle the diesel trucks for a reasonable amount of time before leaving in the morning to the various job sites.
12. The typical hours of operation are from 6:00 a.m. to 5:00 p.m., Monday through Friday. There will be an occasional Saturday. There will be no Sunday hours of operation.
13. The **APPLICANT** advertises on a website and in Maryland papers. Many of their job sites are located in Maryland.
14. The pole barn located on the **PREMISES** was never an agricultural building and thus, the **APPLICANT** cannot obtain a special exception pursuant to Sections 200.4.1 and 401 of the **ORDINANCE**.

15. The pole barn was designed and constructed to store tractor trailers which is a commercial use and not for agricultural use.

16. As the pole barn is located virtually in the center of the **PREMISES**, it is difficult to the use the **PREMISES** for one of the permitted uses in the Agricultural District.

17. The variance will not alter the essential character of the neighborhood or district in which the **PREMISES** is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.

### III. CONCLUSIONS OF LAW

A special exception is not an exception to a zoning ordinance, but rather is a use to which the applicant is entitled unless the zoning hearing board determines, according to standards set forth in the ordinance, that the proposed use would adversely affect the community. East Manchester Township Zoning Hearing Board v. Dallmyer, 609 A.2d 604 (1992).

An applicant for a special exception has the burden of proving that the request complies with the objective requirements of the zoning ordinance. Lafayette College v. Zoning Hearing Board of City of Easton, 588 A.2d 1323, 138 Pa. Commw. 579 (1991). Since a use permitted by special exception is presumptively considered consistent with public health, safety and welfare, the denial of a special exception can be based only on proof that the use would create an adverse effect on public welfare in a way not normally associated with the proposed use. Rudy v. Lower Southampton Township Zoning Hearing Board, 669 A.2d 1051, Pa. Commw. (1995), reargument and appeal denied 683 A.2d 887, 546 Pa. 651.

Once an applicant seeking a special exception has met his or her burden of proving the use meets the objective requirements for a special exception under the zoning ordinance, the burden then shifts to objectors to the application to present evidence and persuade the zoning hearing board that the proposed use would be detrimental to the public health, safety and welfare. Hogan, Lepore & Hogan v. Pequea Township Zoning Hearing Board, 638 A.2d 464, 162 Pa. Commw. 282 (1994), appeal

denied 647 A.2d 905, 538 Pa. 651; Mann v. Lower Wakefield Township, 634 A.2d 768, 160 Pa. Commw. 208 (1993). This burden cannot be met by showing the proposed use would violate the health, safety and welfare of the community by mere speculation as to possible harm; rather, the objectors must show a high degree of probability that the proposed use will substantially affect the health and safety of the community. Manor Health Corp. v. Lower Moreland Township Zoning Hearing Board, 590 A.2d 65, 139 Pa. Commw. 206 (1991).

The record is supported by substantial evidence. Substantial evidence is defined as “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” Valley View Civic Association v. Zoning Hearing Board of Adjustment, 464 A.2d 637 (1983).

The **APPLICANT** cannot meet the objective requirements of the **ORDINANCE**. The building is a commercial building and is not an agricultural building. Therefore, the **APPLICANT** is not entitled to a special exception pursuant to Section 200.4.1 and 401 of the **ORDINANCE**.

An applicant for a variance bears the burden of proving that an unnecessary hardship will result, if the variance is not granted, and that the grant of the proposed variance will not be contrary to the public interest. Valley View Civic Association v. Zoning Board of Adjustment, 501 Pa. 550, 462 A.2d 637 (1983); Zaruta v. Zoning Hearing Board of the City of Wilkes Barre, 117 Pa. Commonwealth Ct. 526, 543 A2d 1282 (1988).

An unnecessary hardship can be established through demonstrating that the physical characteristics of the property are such that it could not be used for any permitted use or could only be so used at great expense or by proving that the property has no value or only distress value for any purpose permitted by the Zoning Ordinance. Keystone Sportsmen's Association of Lycoming County, Inc. v. Zoning Hearing Board of Delaware Township, 100 Pa. Commonwealth Ct. 384, 514 A.2d 974 (1986).

The reasons for granting a variance must be substantial, serious, and compelling. The burden of an applicant seeking a zoning variance is a heavy one and variances should be granted sparingly and only under exceptional circumstances. Commonwealth of Pa. V. Zoning Hearing Board of Susquehanna Township, 677A.2d 853 (1996).

A party seeking a variance has the burden of proving that an unnecessary hardship will result, if the variance is not granted, and that the proposed use will not be contrary to the public interest. John G. Hoopes v. Zoning Hearing Board of Haverford Township, 578 A.2d 63 (1990).

The variance will not alter the essential character of the neighborhood or district in which the **PREMISES** is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.

With the appropriate conditions, the business can be accommodated on the **PREMISES** without adversely affecting the neighboring residential properties.

#### **IV. DECISION**

The **APPLICANT'S** request for a special exception pursuant to Sections 200.4.1 and 401 of the **ORDINANCE** is hereby denied.

The **APPLICANT'S** request for a variance from the requirements of Section 200.2 of the **ORDINANCE** is hereby granted subject to the following conditions:

A. The **APPLICANT** must comply with its plans and promises as presented to the Zoning Hearing Board.

B. There shall be no outside storage associated with this business other than the covered trash container as testified to by the **APPLICANT**.

C. The hours of operation shall be from 6:00 a.m. to 5:00 p.m., Monday through Friday. The **APPLICANT** may occasionally work on Saturdays. There shall be no Sunday hours of operation.

D. Employee vehicles may only be parked on the **PREMISES** during the day.

E. The **APPLICANT'S** vehicles used in the business shall be parked inside of the pole barn.

F. The **APPLICANT** is not permitted to manufacture any items at the **PREMISES** or to paint or spray any items at the **PREMISES**.

G. The **APPLICANT** shall consult with the neighboring residential property owner to re-establish the swale along the side property line so as to retain stormwater that flows across the **PREMISES**.

H. The **APPLICANT** shall plant trees to the side of the parking area located on the **PREMISES** so as to partially screen the parking area from neighboring residences.

I. Any sign to be erected shall comply with the requirements of the **ORDINANCE** and may not be illuminated.

J. The granting of the variance shall be personal to the **APPLICANT**. The variance shall not run with the land.

K. Outside lighting shall be limited to that which now exists at the **PREMISES**.

DATED this 14<sup>th</sup> day of April, 2015.

**PROVIDENCE TOWNSHIP  
ZONING HEARING BOARD**

Ralph L. Dubree  
Ralph L. Dubree

James D. Hess  
James D. Hess

Bradford Duvall  
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