

**ZONING HEARING BOARD OF DOYLESTOWN TOWNSHIP
BUCKS COUNTY, PENNSYLVANIA**

Application No. 2-1-2012

Applicant: Pennsford, LLC
c/o Wayne Ford
2374 Glenside Avenue
Glenside, PA 19038

Owner: Briar Rose, Inc.
1304 Highland Avenue
Fort Washington, PA 19034

Subject Property: Tax Parcel No.9-14-32, which is located at 1360 Almshouse Road, Warrington, PA.

Requested Relief: The Applicant requests a special exception, pursuant to §175-112.B of the Doylestown Township Zoning Ordinance ("Ordinance"), in order to enlarge a nonconforming banquet facility use on the subject property. The Applicant also requests an interpretation of, or a variance from, §175-22, regarding the off-street parking requirements for a banquet facility use.

Hearing History: The application was filed in Doylestown Township on January 25, 2012. The hearing was held at the Doylestown Township Building, 425 Wells Road, Doylestown, PA. 18901 on March 19, 2012.

Appearances: Applicant by: Edward M. Wild, Esq.
Benner & Wild
174 West State Street
Doylestown, PA 18901

Date of Issuance: April 11, 2012

DECISION

FINDINGS OF FACT:

1. The Zoning Hearing Board of Doylestown Township met the requirements of the Zoning Ordinance, the Municipalities Planning Code, and other relevant statutes as to legal notice of the hearings held.

2. The Applicant submitted, as Exhibit A-2, portions of an existing lease for the subject property which contains an option to purchase it by the Applicant. Accordingly, the Applicant is possessed of the requisite standing to make application to this Board.

3. The subject property is located in the C-2, Commercial Zoning District of Doylestown Township. It is 4.21 acres in size, according to Exhibit B-1.a, a sketch plan prepared by Showalter & Associates, dated 1/3/11.

4. The subject property accommodates a banquet facility that is approximately 13,000 square feet in size and accessed by a semicircular driveway to Almshouse Road; a standalone building which is used as the facility's offices and for storage; and a parking field that provides for 136 off-street parking spaces, including two (2) handicapped spaces, which are sized in accordance with Ordinance requirements.

5. The Applicant's principal, Wayne Ford, testified that he entered into the Lease/Purchase Agreement with the Owner because he saw an opportunity to improve the deteriorating banquet facility and improve it, in light of his experience with operating a similar facility in Philadelphia.

6. The use of the subject property is as a banquet facility, defined at Ordinance §175-16.E.18. Mr. Ford confirmed the Applicant's intended use of the property as a facility available for special dinners, banquets or other dining events by prearrangement with the management of the facility for groups or parties and not open to the general public on a daily basis. It will not be a meeting place or a restaurant.

7. Use E-18 "Banquet Facilities" are not permitted within the C-2 Zoning District of Doylestown Township. However, the banquet facility was created when the former Warrington Country Club and Golf Course was developed as a residential subdivision, leaving the club house itself for a separate banquet use.

8. The evidence satisfies the Board that the Township recognizes the E-18 banquet facility use as a lawful nonconforming one on the subject property.

9. The Applicant desires to construct an addition to the existing banquet facility on its eastern side. It is proposed to be one-story, to match the existing facility, that will be approximately 97' x 32' in size.

10. Although the exact dimensions of the proposed addition have not been determined by the Applicant, it agrees that the structure proposed will not, in any event, exceed 3,104 square feet.

11. According to the evidence presented by the Applicant, a building addition of this size constitutes an increase in area of 23% of the area of the banquet facility structure on the subject property when it became lawfully nonconforming.

12. Pursuant to §175-112.B.3, a lawfully existing nonconforming use may be expanded, in volume or area, to an aggregate expansion or addition of not more than 50% of the volume or area existent on the date that the use became nonconforming. This expansion is permitted by special exception.

13. Other than an increase in the area of the nonconforming use and the banquet facility structure, the proposed addition will, according to the Applicant, comply with all other dimensional and bulk criteria of the Ordinance.

14. Mr. Ford testified that the additional structure will not be an additional dining area; rather, because the existing cocktail hour facility in the building's basement is uninviting and inconvenient, the proposed addition will serve as an area to be used for pre-dinner cocktail hours and hors d'oeuvres and will be used in conjunction with a neighboring dining room for dinners.

15. The Applicant indicates that the room will have no other standalone use and will not be used for dining other than for buffet tables for hors d'oeuvres or entrées to be carried into an adjacent dining room.

16. The Applicant indicated that there will be no amplified music; no dancing; and no disc jockey within this proposed addition. There may be unamplified background music, however.

17. Based upon the Applicant's credible testimony, the Board finds that the purpose of the addition is not to attract additional visitors or customers to the banquet facility, but is rather to improve the experience for those who are there.

18. The Applicant opined, and the Board agrees, that the proposed addition will enable the Applicant to upgrade and improve its competitive position in relation to other banquet facilities in the Central Bucks area.

19. The parking field on the subject property accommodates 136 Ordinance conforming off-street parking spaces, including two (2) handicapped spaces.

20. The Applicant proposes the maintenance of the same number of spaces; however, it will increase the handicapped spaces from two (2) to five (5), with the remaining 129 off-street parking spaces still conforming to Ordinance requirements.

21. The Applicant testified that it is important for his business to accommodate the necessary parking and that he is confident that no additional clientele will be generated by the addition proposed.

22. Residents of nearby residential developments expressed concerns about overflow parking in their neighborhoods. The Applicant indicated that appropriate signage would be posted to prevent this.

23. In response to Board questions, the Applicant also indicated that "No Parking" signs will be posted along the semicircular driveway that accesses the front door of the banquet facility.

24. At the time that the application was filed, there was an error in the printed and online copy of the Ordinance that was available to the public with regard to parking requirements for a banquet facility.

25. The Ordinance's off-street parking section, §175-22, lists the required number of off-street parking spaces necessary for each defined use. Unfortunately, the number of off-street parking spaces required for the E-18 banquet facility use is blank.

26. Doylestown Township's Zoning Officer, Sinclair Salisbury, testified that as a result of this application, he ascertained this printing error and that it is since been rectified. The current Zoning Ordinance now contains the requirement for one (1) off-street parking space for each two (2) seats for a banquet facility use.

27. The Applicant presented competent evidence to show that, in 2003, a portion of the banquet facility of the approximate size as the proposed addition, was removed from the building.

28. Accordingly, the Board finds that the subject property is also nonconforming as to the number of off-street parking spaces that it accommodates.

29. A number of residential neighbors appeared at the hearing, many of whom testified in favor of the Applicant's proposed improvements. One expressed concern about overflow parking.

30. Doylestown Township took no position with regard to this application.

CONCLUSIONS OF LAW

1. The subject property accommodates a lawfully nonconforming banquet facility use.

2. Expansion of nonconforming uses is permitted pursuant to §175-112.B.3.b in order to permit natural expansion of nonconforming uses; however, it limits expansion to an aggregate of 50%.

3. The expansion is permitted by special exception pursuant to that Ordinance section. The expansion proposed constitutes 23% of the area of the nonconforming use that was lawfully created.

4. The Ordinance in effect at the time of the application contains no requirements for off-street parking for the banquet facility use. However, the evidence indicates that the original structure was approximately the same size as that proposed and that the number of off-street parking spaces that it accommodates, is also lawfully nonconforming to Ordinance off-street parking requirements.

5. The Board concludes that the Applicant has satisfied all applicable criteria for a special exception set forth at §175-138.

6. As the use of the subject property, and the number of off-street parking spaces, consist as lawful nonconformities, no variance is required from §175-22.D, nor is an interpretation of it necessary.

7. This Board determines that the grant of the special exception requested will not result in negative impacts contemplated by Ordinance §175-178.C.

8. Accordingly, the Doylestown Township Zoning Hearing Board determined, unanimously, to grant the Applicant's request for relief as set forth hereafter.

WHEREFORE, the Zoning Hearing Board of Doylestown Township GRANTS a special exception, pursuant to §175-112.B.3.b of the Doylestown Township Zoning Ordinance, in order to allow the addition proposed to a maximum size of 3,104 square feet, which represents an expansion of 23% of the area of the structure when its nonconforming use became lawful, subject to compliance with all other applicable governmental ordinances and regulations and the following specific condition:

1. That the semicircular driveway accessing the parking lot and front door be posted with "No Parking" signs;

2. That there will be no sit down dinners in the proposed addition;

3. That the addition will not accommodate amplified music, dancing, or disc jockeys; it may provide unamplified background music;

4. That the Applicant comply with all applicable stormwater management requirements, if appropriate, to the satisfaction of Doylestown Township officials.

5. That signs be posted to discourage parking in nearby residential neighborhoods.

**ZONING HEARING BOARD OF
DOYLESTOWN TOWNSHIP**

By: W. Andrew McPherson, lsl
W. Andrew McPherson, Chairman

William J. Lahr, lsl
William J. Lahr

Richard K. Gaver, lsl
Richard K. Gaver

IMPORTANT NOTE: Pursuant to §175-136 and §175-137 of the Doylestown Township Zoning Ordinance, the relief granted herein shall expire five (5) years from the date of this decision.