

RE: Asadullah Azimi,	:	ZONING HEARING BOARD OF
	:	THE BOROUGH OF CARLISLE
Applicant	:	
	:	CASE NO. 2023-03
	:	
Request for Special Exception	:	Date of Decision: May 10, 2023

DECISION OF ZONING HEARING BOARD

I. Procedural and Factual Background

Asadullah Azimi (the “Applicant”), has applied for a special exception pursuant to §§255-8.B. and 255-234.E(4) of the Carlisle Zoning Ordinance (the “Ordinance”) to change from one nonconforming use to another nonconforming use. The Applicant is the proposed lessee of improved property located in the Borough’s R-5 Traditional Residential District, with an address of 19 West Willow Street, Carlisle, Pennsylvania (the “Property”). Applicant filed a special exception application with the Carlisle Borough Zoning Hearing Board on February 21, 2023, that proposes to change a preexisting nonconforming neighborhood convenience store use to a manufacture use to make flat bread on the Property (the “Application”). A manufacture use is not permitted by right nor specifically prohibited in the R-5 zoning district. Section 255-234 allows a nonconforming use to be changed to a different nonconforming use only if permitted by a special exception by the Zoning Hearing Board.

A public hearing on the Application was held at 6:30 p.m. on April 6, 2023, in the Carlisle Borough Hall. The Zoning Hearing Board (the “Board” or the “ZHB”) was represented by Kurt E. Williams, Esq. of Salzmann Hughes, P.C., and the Applicant was represented *pro se*. The hearing was stenographically recorded. Zoning Officer, Jared Woolston, testified that the public hearing was advertised in the *Sentinel* newspaper on March 23 and 30, 2023; that the Property was

posted on March 24, 2023; and that neighboring property owners were notified of the Application by mail on March 24, 2023. Carlisle Borough Zoning Hearing Board members Christopher Fowler (Chair), John Rovegno, Dana Culbertson, Robin Guido, Britt Erney-Muniz, and alternate Anna Knych participated in the hearing (the "Board"). Alternate Board Member Anna Knych participated in the hearing, but not the decision. Aside from the Application submitted (Exhibit 1), the Applicant offered no other exhibits into the record. There were no objections to the admission of the exhibit. The Zoning Officer Report was also made a part of the record (Exhibit Borough -1). No other person or group requested party status.

The Applicant, having been sworn, presented testimony as follows:

1. The Property was previously used as a convenience store.
2. The Property's use will be for the manufacture of flat bread.
3. The Applicant will manufacture flat bread and deliver it to his customers.
4. The Property has side parking with two designated spaces and street parking on Hanover Street and West Willow Street.
5. Street parking will be used for loading and offloading of delivery vehicles.
6. Customers will occasionally pick up their orders at the Property.
7. The Applicant expects one delivery of supplies per week.
8. The Applicant expects a decrease in traffic from the Property's prior nonconforming use as a convenience store.
9. The Applicant will install an oven in the Property for the manufacture of flat bread.
10. The use will produce the odor of fresh bread and will not cause any other odor.
11. There will be no retail sales.
12. The Applicant expects to have four to six people working at the Property.

13. The hours of operation will be from 8:00 a.m. to 5:00 p.m. Monday through Saturday.

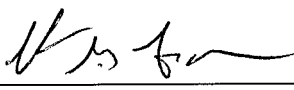
II. Order and Decision of the Board

Based upon the Application as submitted, exhibits entered and the testimony provided, the Board makes the above findings of fact and issues the following Order and Decision as set forth below.

It is hereby ordered and decided as follows:

- A. In accordance with Ordinance §§255-8.B. and 255-234.E(4), the Board finds that the Applicant has met his burden of establishing those criteria necessary for the grant of a special exception for a manufacture use to make flat bread in the R-5 District.
- B. The representations made by the Applicant in the Application, the supporting documentation, and the testimony at the public hearing shall be considered conditions of the variance granted. Changes from said representations, documentation, and testimony, other than minor technical changes, or failure to comply with the conditions of the variance approval, shall be considered a violation of the variance, and may result in revocation of the variance approval if not brought into full compliance within sixty (60) days of written notice of non-compliance from the Borough.
- C. The Board hereby decides by unanimous vote to grant the Application as presented with the condition that there will be no retail sales.

Borough of Carlisle Zoning Hearing Board

By: 
Christopher G. Fowler, Chair

MAILING DATE: May 10, 2023

Any person aggrieved by this decision of the Zoning Hearing Board may appeal to the Court of Common Pleas of Cumberland County. The appeal must be taken within thirty (30) days of the date of this Decision.