

RE: Hari Krishna Property, LLC,	:	ZONING HEARING BOARD OF
	:	THE BOROUGH OF CARLISLE
Applicant	:	
	:	CASE NO. 2023-06
	:	
Request for Special Exception	:	Date of Decision: September <u>11</u>, 2023

DECISION OF ZONING HEARING BOARD

I. Procedural and Factual Background

Hari Krishna Property, LLP (the “Applicant”), has applied for a special exception pursuant to §§255-77.A. and 255-197 of the Carlisle Zoning Ordinance (the “Ordinance”), to allow for the construction of drive-through facilities for a Dunkin’ Donuts fast food restaurant (the “Application”). The Application was filed with the Carlisle Borough Zoning Hearing Board on June 30, 2023, and proposes to construct a free standing +/- 2,200 square foot restaurant with drive-through facilities at the subject site. The Applicant has a lease option on a property located in the Borough’s C-3 General Commercial District, with an address of 2 Houser Lane, Carlisle, Pennsylvania (the “Property”).

A public hearing on the Application was held at 6:30 p.m. on August 3, 2023, in the Carlisle Borough Hall. The Zoning Hearing Board (the “Board” or the “ZHB”) was represented by Kurt E. Williams, Esq. of Salzmahn Hughes, P.C., and the Applicant was represented Hubert X. Gilroy, Esq. of Martson Law Offices. The hearing was stenographically recorded. Zoning Officer Jared Woolston testified that the public hearing was advertised in the *Sentinel* newspaper on July 20 and 27, 2023, that the Property was posted on July 19, 2023, and neighboring property owners were notified of the Application by mail on July 17, 2023.

Members of the Board participating in the hearing on the Application were: Britt Erney-Muniz (Acting Chair), Dana Culbertson, Robin Guido, and alternate Anna Knych participated in the hearing and decision. Aside from the Application submitted (Exhibit A-1), the Applicant offered a Grove Miller traffic summary report (Exhibit A-2) into the record. One other exhibit was accepted into the record by the Board (Exhibit Boro-1), the Staff Report for the Application. There were no objections to the admission of any exhibits. No other person or group requested party status.

Douglas Brehm, P.L.S., the Applicant's engineer ("Mr. Brehm"), having been sworn, presented testimony on behalf of the Applicant as follows:

1. Mr. Brehm is a Professional Engineer with Brehm Lebo Engineering located at 17 State Avenue.
2. Property is currently vacant. It was originally approved as part of the Home Depot shopping center application approximately 20 years ago.
3. The proposed special exception use includes a building footprint that is approximately 30,000 square feet smaller than what was contemplated in the prior application pertaining to the Property.
4. The Applicant did not have a current traffic study performed, but Mr. Brehm's traffic engineer believes that traffic will not be an issue based on the smaller size of the project in relation to the prior traffic study performed in 1999.
5. The Property is adjoined by a Chili's restaurant.
6. The purpose of the Application is just for construction of the drive-through and the original restaurant that was proposed in the prior application also proposed a drive-

though. The current proposal for the drive-through is significantly smaller than the original proposal.

7. The Application includes stacking for 15 vehicles, which Mr. Brehm testified would not be an issue as there are normally 10-12 vehicles in the stacking lane in other similarly sized restaurant projects.
8. Utilities and underground stormwater management system were previously approved and are already in place. A land development plan will be required by the Borough.

II. Order and Decision of the Board

Based upon the Application as submitted 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:

1. In accordance with Ordinance §§255-8.B. and 255-197.D., the Board finds that the Applicant has met its burden of establishing those criteria necessary for the grant of a special exception use for the construction of drive-through facilities for a fast food restaurant.
2. 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 special exception granted. Changes from said representations, documentation, and testimony, other than minor technical changes, or failure to comply with the conditions of the special exception approval, shall be considered a violation of the special exception, and may result in revocation of the special exception approval if not brought into full compliance within sixty (60) days of written notice of non-compliance from the Borough.
3. In addition, the Applicant will provide a current traffic study showing no adverse traffic if the Borough Planning staff so requires during the land development approval process.
4. The Applicant shall screen all trash containers and the menu board will have a maximum sign area of 20 square feet.
5. The Board hereby decides by unanimous vote to grant the Application as presented with the above stated conditions of approval.

In addition to the above, the Applicant shall comply with all applicable federal, state, local and Borough laws, ordinances, and regulations, including building code occupancy limits.

Borough of Carlisle Zoning Hearing Board

By: Britt E. Muniz
Britt Erney-Muniz, Acting Chair

MAILING DATE: September 11, 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 mailing date of this Decision.

