

**FINDINGS AND RECOMMENDATION
OFFICE OF PLANNING AND ZONING
WESTTOWN TOWNSHIP, PENNSYLVANIA**

APPLICANT: Vincent & Jessica Ceritano **CASE NUMBER:** 2018-05

HEARING DATE: August 30, 2018 **PREPARED BY:** William Ethridge, AICP
Director of Planning & Zoning

REQUEST

The applicant is seeking a Special Exception to maintain a Major Home Occupation, as well as variances to the specific home occupation standards.

LOCATION AND DESCRIPTION OF SITE

905 Elk Ln consists of 1.3 acres and is zoned R-1 Residential District. The Elk Lane neighborhood consists of 6 homes. The street is a cul-de-sac on the south side of Johnnys Way, 820 feet east of Franklin Dr, 1,700 feet west of S. Chester Rd. The property is improved with a principal dwelling with an attached garage and driveway, a patio, and a three-car detached garage. The property is along the east side of Elk Ln, located 400' south of the intersection of Johnnys Way and Elk Ln.

PREVIOUS VARIANCE

The property is the subject of a previously approved variance application. Application 2015-01 was submitted by Vincent and Jessica Ceritano to allow a 36'x 32' detached garage, approximately 17' from the (west) side property line. The setback requirement is 25' (8' variance).

APPLICANT'S PROPOSAL

The Township received a complaint from a property owner on Elk Ln on 6/11/2018 that the applicants were running a business from the 2nd story of the detached garage. The Zoning Officer (ZO) visited the property. During that visit, the ZO met with Vincent Ceritano, President of MC Construction Co. Inc., who admitted that his business was based from the 2nd story office of the detached garage. Mr. Ceritano indicated that it was his belief that he had sought and secured all of the necessary permits from the Township to operate his business from the garage.

Based upon research conducted by Township staff, it was determined that no application to operate a home occupation could be found for the subject property. Email correspondence with Zoning Hearing Board members who presided over the previous 2015 variance hearing confirmed the same. An examination of the 2015 variance request forms as well as the transcript did not reveal a request or intention to operate a business from the garage, therefore a notice of violation was issued to the Ceritano's on 6/15/2018.

Subsequent research by Township staff revealed that MC Construction has a company profile on the internet at <https://www.manta.com/c/mmd5pwt/michael-ceritano-construction-co-inc>.

It's full title is Michael Ceritano Construction Co. Inc., Vincent Ceritano is listed as the owner and President. The company uses a PO BOX in Broomall, PA 19008 as one

mailing address. According to the website above, the company was established in 1985, has 1-4 employees, generates annual revenue between \$500,000 and \$1 million and identifies as a General Contractor of single family homes.

The Department of Transportation website also lists information for Michael Ceritano Construction Co. Inc. here:

https://safer.fmcsa.dot.gov/query.asp?searchtype=ANY&query_type=queryCarrierSnapshots&query_param=USDOT&query_string=2167516&Go.x=13&Go.y=8

A snapshot of the DOT website information is included in your packets as Attachment A. The file on the company is listed as “active”, the physical location of the company is at the Ceritano residence on Elk Lane, and the mailing address is shown as the Broomall, PO BOX. There are two drivers listed under this registry and they are approved to carry “building materials”.

SPECIAL EXCEPTION STANDARDS

General standards for the granting of Special Exceptions are contained with 170-2108C 1-5 of the Township Code and are attached to this report as Attachment B.

VARIANCE STANDARDS

General standards for the granting of variances are contained with 170-2107(5) a-e of the Township Code and are attached to this report as Attachment C.

FINDINGS

This Office finds that the subject property exceeds the minimum lot size and minimum lot width for an R-1 lot (1 acre and 150’ of width required, 1.3 acres and over 200’ of width shown). It is a rectangular shaped lot, 220’ deep, 240’ wide, with a small bulb in the northwest corner as Elk Ln forms a cul-de-sac at this property.

170-1605B states *Determination of classification. The Zoning Officer shall determine whether a proposed home occupation is minor, major, or prohibited. The applicant shall be responsible for supplying such information as deemed necessary by the Zoning Officer to make this determination.* It was the opinion of the Zoning Officer that MC Construction Co. Inc. is a *prohibited* home occupation, similar to those businesses identified under 170-1605E. Major Home Occupations are permitted in the R-1 zone by Special Exception.

170-1605A(1) states that the home occupation shall be conducted within a dwelling which is the residence of the principal practitioner. As the business is being run from an accessory structure, not the residence, a variance is required.

170-1605E(11) – Advertising. The address of the home occupation shall not be advertised in such a way that would encourage customers or salespersons to come to the property. Business cards for the company indicate 905 Elk Lane as the headquarters. A variance is required as the applicant’s home address is advertised on the internet, and on official stationary.

RECOMMENDATION

Regarding the Special Exception standards, no discussion was made by the applicant in their materials as to the suitability of the request to the current Comprehensive Plan, which is the 2001 Growth Management Plan for Westtown Township. One of the four principal goals of the 2001 GMP, as stated on pg. 33 of the plan is to: *“Provide for orderly patterns of development, with particular attention on protecting existing neighborhoods from incompatible development.”*

The subject property exceeds both the minimum lot size and width for a lot in the R-1 zoning district. Public sewer is provided on Elk Lane. All of the homes on Elk Lane are also zoned R-1. To the east and south of the subject property are homes zoned R-2. Pennwood Park is located 300' west of the subject property.

As previously noted, Elk Lane is a cul-de-sac street and the applicant's property is at the end of this street. Any commercial traffic related to the business activity would have to pass by the front yard of each home on the street whenever that traffic enters or leaves Elk Lane. Staff observed at least one work truck similar to a Ford F350 Contractor Truck, parked at the property during a site visit. DOT records would suggest there may be at least one additional truck belonging to the business.

The economic impact of this application is difficult to measure. On the one hand, Westtown Township generally promotes small business entrepreneurship; however that support is reserved for economic growth where it is *appropriate* as identified in the Township's zoning, subdivision, and land development ordinances.

Regarding the variance standards for this application; staff does not observe any unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographic or other physical conditions peculiar to the property, that denial of the variances requested would place an undue hardship on, or prevent the applicant from enjoying their property. The lot is developed with a home and other improvements, and a dimensional variance for the accessory structure was previously granted.

There was no evidence submitted by the applicant demonstrating why space within the existing home would not suffice for the home occupation. Rather, it is the opinion of staff that the granting of a home occupation to operate from an accessory structure would constitute the authorization of a use that is not permitted by right in the R-1 district, a condition that is prohibited by code.

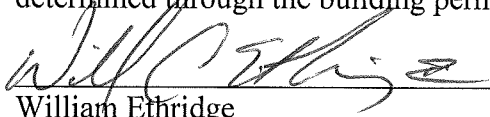
Likewise, it is the opinion of staff that the hardship claimed by the applicant is one of their own making in that they have engaged in activity that is strictly prohibited by Zoning and, had permits been sought, the activity would have been prevented.

Granting the variance would establish a precedent by this Board that home occupations need not be operated within the home, contrary to the very meaning of the title Home Occupation. Additionally, by the very means by which the Township became aware of this activity, an emailed complaint from a neighbor, suggests the activity may be detrimental to the public welfare.

For these reasons Staff believes that the granting of the Special Exception and requested Variances would alter the essential character of not just the neighborhood in which the property is located, but potentially the entire Township.

Based upon the above findings and opinion, this Office recommends the Zoning Hearing Board DENY the applicant's request for a Special Exception and Variances.

This recommendation does not confirm the legal status of a lot. The legality of a lot is determined through the building permit process.



William Ethridge
Director of Planning & Zoning

8/23/18
Date