

**BEFORE THE  
ZONING HEARING BOARD OF  
FAIRVIEW TOWNSHIP, ERIE COUNTY, PENNSYLVANIA**

IN THE MATTER OF	:	
	:	Premises at 6990 West Lake Road
Property owner:	:	Fairview Township, PA
Destination Known, LLC	:	
6990 West Lake Road	:	Index No. (21) 21-14-20
Fairview, PA 16415	:	

**FINDINGS OF FACT**

1. The Applicant is Tim Grow, 6990 West Lake Road, Fairview, Pennsylvania, 16415 (hereinafter “Applicant”).

2. Applicant is planning to purchase the Subject Property located at 6990 West Lake Road, Fairview, Pennsylvania, 16415.

3. The Subject Property is located in Fairview Township, Pennsylvania, and is identified by the Erie County Index No. (21) 21-14-20. The parcel is currently zoned R-2.

4. The Subject Property is currently used as a coffee shop. This use is a lawful non-conforming use.

5. Applicant is seeking to purchase the Subject Property for use as a BBQ restaurant. Applicant plans to install a smoker on the Subject Property. The smoker will need to be enclosed. The construction of an enclosure constitutes the expansion of the non-conforming use.

6. Fairview Township Zoning Ordinance Section 905 permits the expansion of a non-conforming use provided that the Applicant can establish that:

- (a) The expansion becomes an attached part of the main structure and does not utilize additional or adjoining land area other than the original parcel.
- (b) The expansion does not encroach upon the yard requirements of the District in which the non-conforming use is presently located.
- (c) The expansion is for the purpose of expanding only the non-conforming use on the original parcel in existence at the time of the legal acceptance of this Ordinance or amendment thereto. Extension of a lawful use to any

portion of a non-conforming building or structure which existed prior to the enactment of this Ordinance shall not be deemed the extension of such non-conforming use.

- (d) A second conforming principal use may be added to a non-conforming use when meeting all zoning, subdivision, land development and other local, county and state requirements.

7. Applicant is seeking a special exception in accordance with Section 905 of the Fairview Township Zoning Ordinance.

8. Applicant testified that he currently operates a BBQ food truck. He desires to purchase the Subject Property which would allow him to operate his business out of a permanent location.

9. Applicant testified that he will need to install a 5' x 9' smoker which would be located in a 12' x 20' shed attached to the north east corner of the existing structure. Applicant testified that the shed would be 7 feet high and would be have aluminum siding and a metal roof. The chimney would be 11 feet high. The addition would meet all required setbacks.

10. Applicant testified that the smoker would operate throughout the night.

11. Jack Barton, the current owner of the Subject Property, testified in support of Applicant's request.

12. Brenda Schaeffer, a neighbor to the east of the Subject Property, testified. She raised concerns about the smell of barbecued meat. She explained that she currently smells coffee beans from Mr. Barton's coffee business. She did not want to constantly smell BBQ in her home.

13. Tierra Peterson, a neighbor, also spoke in opposition to Applicant's request. She raised concerns about odor and asked for the chimney to be higher than the proposed 11 feet.

14. There was no other testimony offered regarding Applicant's request.

### **CONCLUSION OF LAW**

Applicant has met the requirements for a special exception to build the attached shed as proposed. Applicant must comply with all Township ordinances.

**DECISION**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2021, the Fairview Township Zoning Hearing Board hereby grants Applicant's request for a special exception to allow the expansion of the non-conforming use as proposed.

These Findings of Fact, Conclusions of Law, and Decision are signed this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

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George Wilkosz, Chairperson

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Kellie Tokar

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Judy Miller

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Barbara Parchey

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Christopher Preston