

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :
: No. 2014-15
APPLICATION OF BEN ORTIZ :

DECISION

I. FINDINGS OF FACT

1. Applicant is Ben Ortiz, 1650 Lincoln Highway East, Lancaster, Pennsylvania 17602 (hereinafter referred to as "Applicant").

2. The property which is the subject of the instant application is located at 1650 Lincoln Highway East, East Lampeter Township, Lancaster County, Pennsylvania (referred to as the "Property").

3. Applicant is the owner of the Property.

4. The Property is located in the C-2 Commercial District as shown on the Official Zoning Map of East Lampeter Township.

5. Notice of the hearing on the within application was duly advertised and posted in accordance with the provisions of the Pennsylvania Municipalities Planning Code ("MPC") and The Revised

Zoning Ordinance of East Lampeter Township - 1990 (the "Zoning Ordinance").

6. A public hearing was held before the Zoning Hearing Board of East Lampeter Township ("Board") on this application on May 22, 2014.

7. Testimony at the hearing was stenographically recorded.

8. Applicant appeared personally at the hearing.

9. Jim Sanchez, Applicant's consulting engineer, also appeared at the hearing and testified on behalf of Applicant.

10. Applicant has requested a variance from the terms of Section 1702.5 of the Zoning Ordinance.

11. Section 1702.5 of the Zoning Ordinance requires that there be a minimum 10 foot wide greenbelt provided between all lot lines and all parking areas, driveways and vehicular accessways within the lot.

12. Applicant proposes to use the Property for an auto sales business.

13. There are two locations on the Property (one on the western side and one on the eastern side) where Applicant has requested a variance from the 10 foot wide greenbelt requirements.

14. There is existing macadam along the western side of the Property within the required 10 foot wide greenbelt area. The macadam goes directly to the common side property line with

property owned by Vernon D. Martin (and used as a pizza restaurant).

15. Applicant desires to retain the macadam along the western property line, except for a 5 foot wide area along the side property line and 10 foot wide area along the rear property line. The 5 foot area to be used as a greenbelt along the western side property line is more fully shown on the plan identified at the hearing as Applicant's Exhibit No. 2.

16. With regard to a portion of the eastern property line, Applicant proposes to utilize a 5 foot wide greenbelt area (instead of the required 10 foot wide area) as more fully shown on the plan identified at the hearing as Applicant's Exhibit No. 2.

17. No persons appeared in opposition to the application.

II. CONCLUSIONS OF LAW

1. An applicant for a variance bears the burden of proving that unnecessary hardship will result if the variance is not granted and that the grant of the proposed variance will not be contrary to the public interest. Valley View Civic Association v. Zoning Board of Adjustment, 501 Pa. 550, 462 A.2d 637 (1983); Zaruta v. Zoning Hearing Board of the City of Wilkes-Barre, 117 Pa. Commonwealth Ct. 526, 543 A.2d 1282 (1988); MPC §910.2.

2. A variance, if granted, must be the minimum that will afford relief and will represent the least modification of the zoning ordinance. Rogers v. Zoning Hearing Board of East Pikeland Township, 103 Pa. Commonwealth Ct. 478, 520 A.2d 922 (1987); MPC §910.2(a)(5).

3. There will be no adverse effect on the public health, safety or general welfare if the variance is granted.

4. The variance requested by Applicant is the minimum variances necessary to grant relief.

5. Applicant has satisfied the requirements for the requested variance.

6. Conditions must be attached to the granting of the variance to protect and preserve the surrounding neighborhood.

III. DECISION

Based upon the foregoing findings of fact and conclusions of law, the Zoning Hearing Board of the Township of East Lampeter hereby grants the application of Ben Ortiz for a variance from the terms of Section 1702.5 of the Zoning Ordinance. The variance shall be subject to the following conditions and safeguards which the Board deems necessary to implement the purposes of the Zoning Ordinance and the MPC:

1. Applicant shall obtain all approvals and permits required by applicable federal, state and Township laws and regulations.

2. Applicant shall at all times comply with and adhere to the evidence presented to the Board at the hearing held on May 22, 2014.

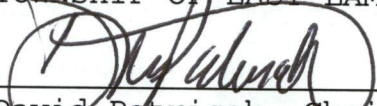
3. Applicant shall provide evidence to the Township Zoning Officer that the proposed lot coverage is in compliance with the maximum lot coverage limitations set forth in the Ordinance. The Board has not granted any variance with regard to maximum lot coverage.

4. Any violation of the conditions contained in this Decision shall be considered a violation of the Zoning Ordinance and shall be subject to the penalties and remedies contained in the Pennsylvania Municipalities Planning Code.

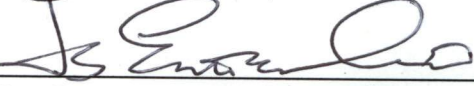
5. The approval granted by this Decision shall expire if Applicant does not obtain a zoning permit within six (6) months from the date of this Decision and does not complete construction of the improvements, if any, so authorized and commence the use so authorized within twelve (12) months from the date of the zoning permit.

6. The foregoing Decision shall be binding upon the Applicant and his heirs, successors and assigns.

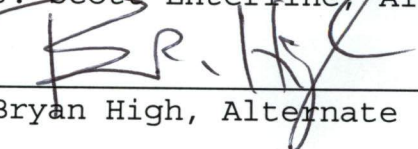
ZONING HEARING BOARD OF THE
TOWNSHIP OF EAST LAMPETER



David Petrisek, Chairman



J. Scott Enterline, Alternate



Bryan High, Alternate

Dated and filed June 12, 2014, after hearing held on May 22,
2014.

The undersigned certifies that a copy of this Decision was
served upon all parties on or prior to June 13, 2014.