

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :
: No. 2014-26
APPLICATION OF DAVID KING :

DECISION

I. FINDINGS OF FACT

1. Applicant is David King, 141A North Ronks Road, Ronks, Pennsylvania 17572 ("Applicant").
2. The property which is the subject of the instant application is 141 North Ronks Road, East Lampeter Township, Lancaster County, Pennsylvania (the "Property").
3. Applicant is the owner of the Property.
4. The Property is located partially in the Rural District and partially in the R-2 Residential 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 September 25, 2014.

7. Testimony at the hearing was stenographically recorded.

8. Applicant appeared personally at the hearing.

9. Eli Beiler also appeared at the hearing and testified on behalf of Applicant.

10. Applicant has requested: (i) a special exception in accordance with Section 702.20 and Section 1924-A of the Zoning Ordinance; (ii) a variance from the terms of Section 1702.4 of the Zoning Ordinance; and (iii) a variance from the terms of Section 1924-A.5 of the Zoning Ordinance.

11. Section 702.20 of the Zoning Ordinance provides that public and parochial educational institutions are permitted by special exception, subject to Section 1924-A.

12. Section 1924-A of the Zoning Ordinance sets forth the specific requirements for public and parochial educational institutions.

13. Section 1702.4 of the Zoning Ordinance requires that parking facilities be paved with a hard all-weather surface.

14. Section 1924-A.5 of the Zoning Ordinance requires, among other things, that all outdoor parking areas be screened from adjoining properties that are located within a residential district.

15. The Property is approximately 100 feet by 280 feet, as more fully shown on the plan ("Plan") submitted by Applicant.

16. The Property will have access to North Ronks Road by means of a driveway / farm lane, as more fully shown on the Plan.

17. Applicant desires to construct a one-room school upon the Property.

18. There will be sufficient parking upon the Property for the proposed school use and the parking will be setback a minimum of 30 feet from adjoining properties within a residential zone.

19. Applicant proposes that the driveway and parking area be a gravel surface, which is acceptable for Applicant's limited one-room school house use.

20. Applicant does not want to screen the parking area so that the neighbors can better monitor the school for security.

21. All outdoor recreation and activity areas will be setback a minimum of 20 feet from any lot line.

22. Because there is no electricity serving the school, there will be no exterior lighting.

23. The proposed school use will not emit obnoxious noise, glare, dust, odor, vibration, electrical disturbance or any other objectionable impact beyond the lot line.

24. No persons appeared in opposition to the application.

II. CONCLUSIONS OF LAW

1. An applicant for a special exception has the burden of persuasion as to the specific criteria and standards of the zoning

ordinance. Abbey v. Zoning Hearing Board of the Borough of East Stroudsburg, 126 Pa. Commonwealth Ct. 235, 559 A.2d 107 (1989); Bray v. Zoning Board of Adjustment of the City of Philadelphia, 48 Pa. Commonwealth Ct. 523, 410 A.2d 909 (1980).

2. With the exception of Section 1924-A.5 and Section 1702.4 of the Zoning Ordinance, Applicant has demonstrated compliance with the requirements of Section 702.20 and Section 1924-A of the Zoning Ordinance.

3. Applicant requires variances from Section 1924.A-5 and Section 1702.4 of the Zoning Ordinance.

4. 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); Pennsylvania Municipalities Planning Code ("MPC") §910.2.

5. A variance, if granted, "must be the minimum that will afford relief and will represent the least modification of the ordinance." Rogers v. Zoning Hearing Board of East Pikeland Township, 103 Pa. Commonwealth Ct. 478, 520 A.2d 922, 924 (1987); MPC §910.2(a)(5).

6. Applicant has presented evidence sufficient to establish that unnecessary hardship will result if the variances are not

granted, that the grant of the proposed variances will not be contrary to the public interest, and that the variances requested are the minimum that will afford relief and will represent the least modification of the ordinance.

7. Conditions must be attached to a grant of the variance in this case to preserve and protect 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 David King for: (i) a special exception pursuant to Section 702.20 and Section 1924-A of the Zoning Ordinance in order to construct and operate a one-room school; (ii) a variance from the terms of Section 1702.4 of the Zoning Ordinance to allow a gravel parking area; and (iii) a variance from the terms of Section 1924-A.5 of the Zoning Ordinance to eliminate screening. This special exception and variances 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.

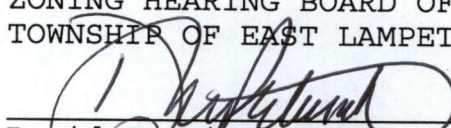
2. Applicant shall at all times comply with and adhere to the information and representations submitted with and contained in his application and the evidence presented to the Board at the hearing held on September 25, 2014.

3. 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.

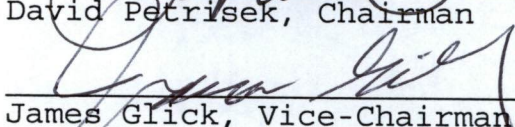
4. The approval granted by this Decision shall expire if Applicant does not obtain a zoning permit within twelve (12) months from the date of this Decision and does not complete construction of the improvements, if any, so authorized and commence the use so authorized within twelve (12) months from the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

5. The foregoing Decision shall be binding upon the Applicant and his heirs and assigns.

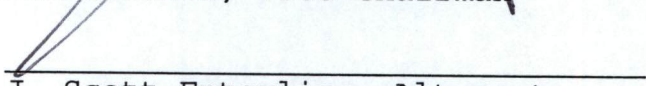
ZONING HEARING BOARD OF THE
TOWNSHIP OF EAST LAMPETER



David Petrisek, Chairman



James Glick, Vice-Chairman



J. Scott Enterline, Alternate

Dated and filed October 9, 2014, after hearing held on September 25, 2014.

The undersigned certifies that a copy of this Decision was served upon all parties on or prior to October 10, 2014.

